

By Mr. SOUTHALL: Paper to accompany bill for relief of W. F. Bowden—to the Committee on Invalid Pensions.

By Mr. STEVENS of Minnesota: Petition of Thomas E. Covington et al., St. Paul, Minn., favoring untaxed alcohol—to the Committee on Ways and Means.

Also, petition of Gebhard Bohn, of St. Paul, Minn., favoring untaxed denaturalized alcohol—to the Committee on Ways and Means.

Also, petition of Lodge No. 22, Brotherhood of Railway Trainmen, favoring bill H. R. 7041—to the Committee on Interstate and Foreign Commerce.

By Mr. THOMAS of Ohio: Petition of Lone Star Grange, of Conneaut, Ohio—to the Committee on Interstate and Foreign Commerce.

By Mr. WILLIAMS of Mississippi: Memorial of North Mississippi conference of the Methodist Episcopal Church, favoring bill H. R. 4072—to the Committee on the Judiciary.

Also, paper to accompany bill for relief of Hiram Reagan—to the Committee on Invalid Pensions.

SENATE.

TUESDAY, January 31, 1905.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. The Journal will stand approved.

ELECTORAL VOTES.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of State, transmitting the final ascertainment of electors for President and Vice-President for the State of Tennessee; which, with the accompanying paper, was ordered to be filed.

ANACOSTIA AND POTOMAC RIVER RAILROAD COMPANY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Anacostia and Potomac River Railroad Company for the year ended December 31, 1904; which was referred to the Committee on the District of Columbia, and ordered to be printed.

GEORGETOWN AND TENNALLYTOWN RAILWAY COMPANY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Georgetown and Tennallytown Railway Company for the year ended December 31, 1904; which was referred to the Committee on the District of Columbia, and ordered to be printed.

BRIGHTWOOD RAILWAY COMPANY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Brightwood Railway Company, of the District of Columbia, for the year ended December 31, 1904; which was referred to the Committee on the District of Columbia, and ordered to be printed.

WASHINGTON RAILWAY AND ELECTRIC COMPANY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Washington Railway and Electric Company for the year ended December 31, 1904; which was referred to the Committee on the District of Columbia, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. C. R. McKENNEY, its enrolling clerk, announced that the House had passed the joint resolution (S. R. 88) authorizing the Secretary of War to furnish a condemned cannon to the board of regents of the University of Minnesota, at Minneapolis, Minn., to be placed on campus as a memorial to students of said university who served in Spanish war.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

H. R. 2531. An act to divide Washington into two judicial districts;

H. R. 13305. An act granting an increase of pension to Amos L. Griffith;

H. R. 15861. An act granting an increase of pension to Charles O. Lapham;

H. R. 17902. An act to permit the legislative assembly of the Territory of Oklahoma to make appropriations for the erection of buildings for the Agricultural and Mechanical College of said Territory; and

H. R. 18523. An act making an appropriation for fuel for the public schools of the District of Columbia.

The message further announced that the House had agreed to

the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 15895) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1906, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President pro tempore:

H. R. 3950. An act for the relief of W. R. Akers, of Alliance, Nebr.;

H. R. 6375. An act for the relief of the executors of the estate of Henry Lee, deceased;

H. R. 11370. An act to relieve the Italian-Swiss Agricultural Colony from the internal-revenue tax on certain spirits destroyed by fire;

H. R. 16311. An act granting an increase of pension to Morris Del Dowane;

H. R. 16790. An act making Norwalk, Conn., a subport of entry;

H. R. 17333. An act to authorize the construction of a bridge across Red River at Shreveport, La.;

S. R. 94. Joint resolution to enable the Secretary of the Senate and Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States March 4, 1905;

S. R. 97. Joint resolution providing for the payment of the expenses of the Senate in the impeachment trial of Charles Swayne;

H. J. Res. 164. Joint resolution for the printing of a compilation of the laws of the United States relating to the improvement of rivers and harbors; and

H. J. Res. 181. Joint resolution authorizing the Secretary of War to transfer to the militia cavalry organization at Chattanooga, Tenn., a certain unused portion of the national cemetery reservation at Chattanooga, Tenn.

CREDENTIALS.

Mr. CARMACK presented the credentials of WILLIAM B. BATE, chosen by the legislature of the State of Tennessee a Senator from that State for the term beginning March 4, 1905; which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a petition of sundry citizens of Lockport, Pa., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Beach, Ind. T., remonstrating against the passage of the so-called "statehood bill;" which was ordered to lie on the table.

He also presented a petition of sundry citizens of the United States, praying for the enactment of legislation to restrict the immigration of aliens into the United States; which was referred to the Committee on Immigration.

He also presented a memorial of sundry citizens of Charlottesville, W. Va., remonstrating against the enactment of legislation providing for the closing on Sunday of certain places of business in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. PERKINS presented a petition of the Chamber of Commerce of Humboldt, Cal., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Merchants' Association of San Francisco, Cal., praying that an appropriation be made to provide for the construction of an additional tug for the revenue service at that port; which was referred to the Committee on Commerce.

He also presented a petition of the Chamber of Commerce of Humboldt, Cal., praying that a part of the redwood forests of California be set apart as a forest reserve; which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a memorial of sundry sugar-beet farmers of Monterey County, Cal., and a memorial of sundry sugar-beet farmers of Pajaro Valley, Cal., remonstrating against the proposed reduction of the duty on sugar imported from the Philippine Islands; which were referred to the Committee on the Philippines.

Mr. GAMBLE presented the petition of Joshua D. Hofer and sundry other citizens of Marion, S. Dak., praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which was referred to the Committee on Patents.

He also presented the petition of Willis Wright and 37 other citizens of Sioux Falls, S. Dak., praying for the enactment of legislation to prohibit the manufacture and sale of intoxicating liquors in the Territory of Oklahoma when admitted to statehood; which was ordered to lie on the table.

He also presented the petition of Elizabeth Slyfield and sundry other citizens of Nemo, S. Dak., and the petition of Susan A. Reynolds and sundry other citizens of Rapid City, S. Dak., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors, and also to prohibit the manufacture and sale of intoxicating liquors in the Territory of Oklahoma when admitted to statehood; which were referred to the Committee on the Judiciary.

Mr. KEAN presented a memorial of the State board of agriculture of New Jersey, remonstrating against the repeal of the present oleomargarine law; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Protective Lodge, No. 2, Brotherhood of Railway Trainmen, of Phillipsburg, N. J., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Stewart Hartshorn Company, of East Newark, N. J., praying for the enactment of legislation providing for the registration of trade-marks used in commerce with foreign nations or of the several States and Territories; which was referred to the Committee on Patents.

He also presented petitions of Dr. J. H. Finnerty, of Jersey City; of J. G. Block, of Jersey City, and of the Retail Druggists' Association of Jersey City, all in the State of New Jersey, praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which were referred to the Committee on Patents.

He also presented memorials of Mrs. A. M. Robbins, of Windsor; of Mrs. Anna K. Walton, of Woodbury; of the congregation of the First Methodist Episcopal Church of Cape May; of W. E. Comog, of Flemington; of Rev. Howard H. Brown, of Orange; of the Woman's Christian Temperance Union of Ocean Grove; of Ulysses Young, of Orange; of John Berryman, of East Orange; of the congregation of St. Paul's Church, of Ocean Grove, and of J. H. C. Applegate, of Bridgeton, all in the State of New Jersey, remonstrating against the repeal of the present anticanteen law; which were referred to the Committee on Military Affairs.

Mr. DRYDEN presented the petition of Theo. J. Werner, of East Orange, N. J., praying for the repeal of the present anticanteen law; which was referred to the Committee on Military Affairs.

He also presented a memorial of the State Board of Agriculture of New Jersey, remonstrating against the repeal of the present oleomargarine law; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Stewart Hartshorn Company, of East Newark, N. J., praying for the enactment of legislation providing for the registration of trade-marks used in commerce with foreign nations or of the several States and Territories; which was referred to the Committee on Patents.

He also presented a petition of Protection Lodge, No. 2, Brotherhood of Railroad Trainmen, of Phillipsburg, N. J., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented the petition of J. S. Block, of Jersey City, N. J., praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which was referred to the Committee on Patents.

He also presented a petition of sundry citizens of Lumberton, N. J., and a petition of the National Congress of Mothers, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented a memorial of the Woman's Christian Temperance Union of Elizabeth, N. J., remonstrating against the repeal of the present anticanteen law, and praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors, for the adoption of an amendment to the Constitution to prohibit polygamy, and for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Military Affairs.

Mr. BALL presented a petition of the Philanthropic Committee of the Quarterly Meeting of Friends of Concord, N. H., and a petition of the Philanthropic Committee of the Monthly Meeting of Friends of Wilmington, Del., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

He also presented a petition of the Philanthropic Committee of

the Quarterly Meeting of Friends of Wilmington, Del., praying for the enactment of legislation providing protection to Indians against the sale of intoxicating liquors in the new States to be formed; which was ordered to lie on the table.

He also presented a petition of the Philanthropic Committee of the Quarterly Meeting of Friends of Wilmington, Del., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings, grounds, and ships; which was referred to the Committee on Public Buildings and Grounds.

He also presented a memorial of the Philanthropic Committee of the Monthly Meeting of Friends of Wilmington, Del., remonstrating against the repeal of the present anticanteen law; which was referred to the Committee on Military Affairs.

He also presented a memorial of sundry citizens of Wilmington, Del., remonstrating against the enactment of legislation providing for continued expenditure of the nation's money for military purposes; which was referred to the Committee on Military Affairs.

Mr. GALLINGER presented a petition of the Woman's Christian Temperance Union of Short Falls, N. H., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

He also presented a petition of the Holbrook Grocery Company, of Keene, N. H., praying for the enactment of legislation to increase the salaries of tea examiners at the various ports of the United States; which was referred to the Committee on Appropriations.

He also presented petitions of the Young Men's Christian Association of Washington, D. C.; of Charles F. Weller, of Washington, D. C.; of the Massachusetts Mutual Life Insurance Company, of Washington, D. C., and of the Cosmos Club, of Washington, D. C., praying that an appropriation be made for the establishment of public playgrounds in that city; which were referred to the Committee on the District of Columbia.

Mr. BEVERIDGE presented a petition of Post J, Indiana Division, Travelers' Protective Association of America, of Evansville, Ind., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Heilman Machine Works, of Evansville, Ind., praying for the enactment of legislation providing for the registration of trade-marks used in commerce with foreign nations or of the several States and Territories; which was referred to the Committee on Patents.

He also presented a memorial of sundry citizens of Denver, Ind., and a memorial of sundry citizens of Owen County, Ind., remonstrating against the enactment of legislation providing for the closing on Sunday of certain places of business in the District of Columbia; which were referred to the Committee on the District of Columbia.

He also presented a petition of sundry citizens of Alexandria, Ind., and a petition of sundry citizens of Bluffton, Ind., praying for the enactment of legislation providing for the holding of terms of the Federal courts at the city of Muncie, in that State; which were referred to the Committee on the Judiciary.

Mr. DOLLIVER presented the petition of W. S. Browning and sundry other citizens of Winfield, Iowa, praying for the enactment of legislation to fix the rates of postage on books and merchandise; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. LONG presented a petition of L. W. Parr Division, No. 396, Brotherhood of Locomotive Engineers, of Argentine, Kans., and a petition of Local Division No. 300, Order of Railway Conductors, of Dodge City, Kans., praying for the passage of the so-called "employers' liability bill;" which were referred to the Committee on Interstate Commerce.

He also presented a memorial of sundry citizens of Burlington, Kans., and a memorial of sundry citizens of Rush County, Kans., remonstrating against the enactment of legislation providing for the closing on Sunday of certain places of business in the District of Columbia; which were referred to the Committee on the District of Columbia.

Mr. McCUMBER presented a memorial of the legislature of North Dakota, remonstrating against any reduction in the duty on foreign products and on seed wheat imported from the Canadian northwest; which was referred to the Committee on Finance.

He also presented a memorial of the legislature of North Dakota, relative to the protection of the grain growers of the Northwest against the injustice in admitting free of duty foreign-grown wheat; which was referred to the Committee on Finance.

Mr. MARTIN presented a petition of sundry citizens of Albemarle County, Va., relative to the work of missions in the

Kongo Free State; which was referred to the Committee on Foreign Relations.

Mr. NELSON presented a memorial of sundry citizens of Minnesota, remonstrating against the repeal of the present antitea law; which was referred to the Committee on Military Affairs.

He also presented a petition of Minneapolis Lodge, No. 102, Brotherhood of Railroad Trainmen, of Minneapolis, Minn., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented a memorial of the Tri-State Grain and Stock Growers' Association, of Minnesota, North and South Dakota, remonstrating against the repeal of the present oleomargarine law; which was referred to the Committee on Agriculture and Forestry.

Mr. HANSBROUGH presented a concurrent resolution of the legislature of North Dakota, relative to the reduction of any duty on foreign products and on seed wheat imported from the Canadian northwest; which was referred to the Committee on Finance, and ordered to be printed in the Record, as follows:

Concurrent resolution introduced by Mr. Phelan.

Whereas the organized and persistent agitation for reduction of the tariff on foreign products, so apparent in Twin City papers, is leading Government officials and others to believe that the Northwest, including North Dakota, is favorable to action detrimental to every interest in this State; and

Whereas such agitation leads to unrest and undermining of confidence in farm and ranch investments, and ultimately, if persisted in, will impair the value of farm products and the revenue resulting to merchants and transportation interests, retarding the development of new land and unsettled regions of our State; and

Whereas part of the agitation has resulted in a plea for free seed wheat from the Canadian northwest, where, according to Professor Boileau, northwest and westward from Valley City, this State has seldom raised so fine a crop of wheat of so high seed value, and the supply of such seed wheat is ample for North Dakota farms: Therefore,

Resolved by the house of representatives of the ninth assembly of the State of North Dakota, the senate concurring, That we oppose any and all tinkering with the tariff or the granting of special privileges favorable to special interests not in harmony with the spirit and letter of the Dingley tariff governing farm products, and that we oppose any reduction of duty on wheat for seed or other purposes, or on other products of the range and farm.

Resolved, That an engrossed copy of these resolutions be forwarded to the President and honorable Secretary of the Treasury, and to each of our Senators and Members of Congress.

Mr. HANSBROUGH presented a concurrent resolution of the legislature of North Dakota relative to the protection of the grain growers of the Northwest against the injustice in admitting free of duty foreign-grown wheat; which was referred to the Committee on Finance, and ordered to be printed in the Record, as follows:

Concurrent resolution introduced by Mr. Davis.

Whereas it is currently reported that the Millers' Association has made application to the Treasury Department at Washington for a ruling under which foreign-grown wheat may be imported under the provisions of section 30 of the Dingley tariff law; and

Whereas the effect of the granting of said application, in our opinion, would be to practically nullify paragraph 234 of said law, which provides for a specific duty on wheat imports of 25 cents per bushel; and

Whereas the opinions of the Department of Justice on the question of drawbacks upon imported materials to be used in articles manufactured for export are lacking in uniformity, at least one of said opinions holding to the view that materials so imported for such use "shall so appear in the completed article that the quantity or measure thereof may be ascertained" (this, in fact, being the letter of the law): Therefore,

Resolved by the house of representatives of the ninth legislative assembly of the State of North Dakota, the senate concurring, That we firmly protest against the granting of the application of the said millers and urge upon our delegation in Congress the importance of proceeding in every reasonable way to protect the grain growers of the Northwest against the injustice that we are convinced would follow the success of any scheme for the free admission of foreign-grown wheat.

Resolved, That an engrossed copy of these resolutions be forwarded to the honorable Secretary of the Treasury and to each of our Senators and Members in Congress.

Mr. PLATT of Connecticut. I present a joint resolution of the legislature of Connecticut, relative to the retirement of Gen. Joseph R. Hawley. I ask that the joint resolution may be read and referred to the Committee on Military Affairs.

There being no objection, the joint resolution was read, and referred to the Committee on Military Affairs, as follows:

STATE OF CONNECTICUT, OFFICE OF THE SECRETARY,
General Assembly, January session, A. D. 1905.

Senate joint resolution No. 26. Resolution concerning the retirement of Gen. Joseph R. Hawley.

Resolved by this assembly, That our Senators and Representatives in Congress be, and they are hereby, requested to use their best endeavors to have Hon. Joseph R. Hawley retired as an officer in the Regular Army with such rank and emoluments as his distinguished service entitles him to.

Passed senate January 19, 1905.

Passed house January 23, 1905.

STATE OF CONNECTICUT, Office of the Secretary, ss:

I, Theodore Bodenwein, secretary of the State of Connecticut and keeper of the seal thereof and of the original record of the acts and resolutions of the general assembly of said State, do hereby certify that I have compared the annexed copy of the resolution concerning the retirement of Gen. Joseph R. Hawley with the original record of the same now remaining in this office and have found the said copy to be a correct and complete transcript thereof.

And I further certify that the said original record is a public record of the said State of Connecticut, now remaining in this office.

In testimony whereof I have hereunto set my hand and affixed the seal of said State, at Hartford, this 24th day of January, 1905.

[SEAL.]

THEODORE BODENWEIN, Secretary.

REPORTS OF COMMITTEES.

Mr. CULLOM, from the Committee on Foreign Relations, to whom was referred the amendment submitted by Mr. ALDRICH on the 21st instant, proposing to appropriate \$1,500 for salary of consul at Colonia, Uruguay, intended to be proposed to the diplomatic and consular appropriation bill, reported favorably thereon, and moved that it be printed, and, with the accompanying paper, referred to the Committee on Appropriations; which was agreed to.

He also, from the same committee, to whom was referred the amendment submitted by Mr. PLATT of New York on the 30th instant, proposing to increase the salary of the consul at Tenerife, Spain, from \$1,500 to \$2,000 per annum, intended to be proposed to the diplomatic and consular appropriation bill, reported favorably thereon, and moved that it be printed, and, with the accompanying paper, referred to the Committee on Appropriations; which was agreed to.

Mr. TALIAFERRO, from the Committee on Claims, to whom was referred the bill (S. 621) for the relief of Fernando J. Moreno, reported it with an amendment, and submitted a report thereon.

Mr. BALL, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5493) granting an increase of pension to Charles S. Kerns;

A bill (H. R. 15685) granting an increase of pension to Elizabeth Krehbiel;

A bill (H. R. 15710) granting an increase of pension to Luther W. Cannon;

A bill (H. R. 15768) granting an increase of pension to R. Howard Wallace;

A bill (H. R. 14485) granting a pension to Charlotte M. Wylie;

A bill (H. R. 15633) granting an increase of pension to Henry King;

A bill (H. R. 15632) granting an increase of pension to Barney Carroll;

A bill (H. R. 15631) granting an increase of pension to John Brooks;

A bill (H. R. 15491) granting a pension to Theresa M. Kennedy;

A bill (H. R. 16140) granting an increase of pension to Nelson A. Fitts;

A bill (H. R. 16490) granting an increase of pension to Green Yeiser;

A bill (H. R. 16544) granting an increase of pension to Varner G. Root;

A bill (H. R. 15903) granting an increase of pension to George T. Barker;

A bill (H. R. 16054) granting an increase of pension to Patrick O'Brien;

A bill (H. R. 16175) granting an increase of pension to Merriek D. Frost;

A bill (H. R. 16455) granting an increase of pension to Elizabeth M. Ketcham;

A bill (H. R. 16813) granting an increase of pension to Laura A. Hinkley;

A bill (H. R. 16953) granting an increase of pension to John Ryan; and

A bill (H. R. 17162) granting an increase of pension to Thomas Dukes.

Mr. MARTIN, from the Committee on the District of Columbia, to whom was referred the bill (S. 6241) to provide for condemning the necessary land to join Kalorama avenue and Prescott place, reported it without amendment, and submitted a report thereon.

Mr. PROCTOR, from the Committee on Military Affairs, to whom was referred the bill (H. R. 14351) for the relief of the Gull River Lumber Company, its assigns or successors in interest, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

Mr. FRYE, from the Committee on Foreign Relations, to whom was referred the amendment submitted by himself on the

27th instant, proposing to increase the salary of the consul at Cal-lao, Peru, to \$3,500, intended to be proposed to the diplomatic and consular appropriation bill, reported favorably thereon, and moved that it be referred to the Committee on Appropriations, and printed; which was agreed to.

REPORT ON VENEZUELAN CASES.

Mr. CULLOM, from the Committee on Foreign Relations, reported the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring therein), That there be printed and bound 1,100 copies of the report of the agent of the United States in the arbitration of the Venezuelan cases before The Hague tribunal, with accompanying appendixes, referred to in the message of the President to the Senate and House of Representatives, dated January 23, 1905, 200 for the use of the Senate, 400 for the use of the House of Representatives, and 500 for use of the Department of State.

PREVENTION OF CARRIAGE OF OBSCENE LITERATURE, ETC.

Mr. CLAPP. From the Committee on Interstate Commerce I report back favorably, without amendment, the bill (H. R. 9493) to amend the act of February 8, 1897, entitled "An act to prevent the carrying of obscene literature and articles designed for indecent and immoral use from one State or Territory into another State or Territory," so as to prevent the importation and exportation of the same, and I ask unanimous consent for its present consideration.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the consideration of the bill?

Mr. LODGE. I did not hear the first part of the bill. My attention was distracted. The Secretary will kindly read the title and Calendar number.

The PRESIDENT pro tempore. It is reported to-day from the Committee on Interstate Commerce. It has no Calendar number.

Mr. KEAN. Let it go to the Calendar.

The PRESIDENT pro tempore. Objection being made, the bill goes to the Calendar.

Mr. CLAPP. What Senator objected?

Mr. LODGE. I did not object. I merely wanted to know something about the bill.

The PRESIDENT pro tempore. The Senator from New Jersey [Mr. KEAN] objected.

Mr. CLAPP. It is a bill similar to one which passed the Senate last winter and went to the House. The House instead of passing our bill sent their bill here. So we are now proposing to pass the House bill.

Mr. LODGE. Can the Senator tell me what the purpose of the bill is?

Mr. CLAPP. It is to apply the same restrictions on the carriage of obscene matter by express companies, etc., that are now applied under the postal laws to the carriage of that matter by mail carriers.

Mr. LODGE. I have no objection to the bill.

Mr. KEAN. Let the bill be again read.

Mr. GALLINGER. It applies to express companies particularly.

The PRESIDENT pro tempore. The bill will be again read if the Senator from New Jersey desires it.

Mr. KEAN. Let it be read.

The Secretary again read the bill.

Mr. KEAN. It is all right, Mr. President.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. CLAPP. I move to recall from the House of Representatives the bill (S. 3431) to amend the act of February 8, 1897, entitled "An act to prevent the carrying of obscene literature and articles designed for indecent and immoral use from one State or Territory into another State or Territory," so as to prevent the importation and exportation of the same.

The motion was agreed to.

BILLS AND JOINT RESOLUTION INTRODUCED.

Mr. PLATT of New York introduced a bill (S. 6953) granting a pension to Eliza S. Roe; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. COCKRELL introduced a bill (S. 6954) for the relief of the trustees of the Christian Church of Marshall, Mo.; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6955) granting a pension to Frederick Hartman; which was read twice by its title.

Mr. COCKRELL. To accompany the bill I present the peti-

tion of Frederick Hartman, late private, Company B, Fifty-sixth Regiment Enrolled Missouri Militia, and the affidavits of Dr. Benjamin R. Hempstead. I move that the bill and the accompanying papers be referred to the Committee on Pensions.

The motion was agreed to.

Mr. BLACKBURN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6956) granting an increase of pension to William Annis (with an accompanying paper); and

A bill (S. 6957) granting an increase of pension to John Jones, jr. (with an accompanying paper).

Mr. OVERMAN introduced a bill (S. 6958) granting an increase of pension to Stephen M. Davis; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MARTIN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 6959) for the relief of the trustees of the New Hope Baptist Church, of Orange County, Va.;

A bill (S. 6960) for the relief of the estate of William D. Wright, deceased;

A bill (S. 6961) for the relief of the estate of William A. Coffman, deceased;

A bill (S. 6962) for the relief of the estate of Susan Richards, deceased;

A bill (S. 6963) for the relief of the estate of Joseph Blosser, deceased; and

A bill (S. 6964) for the relief of the heirs of Ambrose Hord, deceased (with accompanying papers).

Mr. LODGE introduced a bill (S. 6965) to promote the security of travel upon railroads engaged in interstate commerce, and to encourage the saving of life; which was read twice by its title, and referred to the Committee on Interstate Commerce.

Mr. McCUMBER introduced a bill (S. 6966) granting an increase of pension to Peter A. Purdy; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6967) to create the southern division of the judicial district of North Dakota for judicial purposes, and to fix the time and place for holding court therein; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. GALLINGER introduced the following bills; which were severally read twice by their titles, and referred to the Committee on the District of Columbia:

A bill (S. 6968) to amend section 605 of the Code of Law for the District of Columbia (with an accompanying paper); and

A bill (S. 6969) to amend an act entitled "An act to establish a Code of Law for the District of Columbia" (with an accompanying paper).

Mr. HALE introduced a bill (S. 6970) providing for the award of medals of honor to certain officers and men of the Navy and Marine Corps; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. CARMACK introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 6971) for the relief of J. C. Brooks (with accompanying papers);

A bill (S. 6972) for the relief of Washington Campbell (with accompanying papers); and

A bill (S. 6973) for the relief of the estate of James L. Paul, deceased (with accompanying papers).

Mr. DOLLIVER introduced a bill (S. 6974) for the establishment of an additional recording district in the Indian Territory, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. HEYBURN introduced a bill (S. 6975) to amend section 2 of an act entitled "An act to extend the coal-land laws to the district of Alaska," approved June 6, 1900, amended April 28, 1904; which was read twice by its title, and referred to the Committee on Mines and Mining.

Mr. DRYDEN introduced a bill (S. 6976) granting a pension to Joseph L. Herron; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LONG introduced a bill (S. 6977) for the relief of the heirs of Hiram B. Elliott; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6978) to authorize electric railway, light, and power companies to construct dams across non-navigable streams in Indian Territory, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. TALIAFERRO introduced a bill (S. 6979) granting an increase of pension to Milton A. Smith; which was read twice

by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. BURNHAM introduced a bill (S. 6980) to aid in the construction of a railroad and telegraph and telephone line in the Territory of Alaska; which was read twice by its title, and referred to the Committee on Territories.

Mr. ALGER introduced a bill (S. 6981) granting a pension to Charles H. Van Duzen; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PLATT of Connecticut introduced a bill (S. 6982) regulating corporations created by acts of Congress in certain cases; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. CULLOM introduced a bill (S. 6983) to establish a light and fog-signal station at the entrance of Resurrection Bay, Alaska; which was read twice by its title, and referred to the Committee on Commerce.

Mr. GAMBLE introduced a joint resolution (S. R. 102) authorizing the Secretary of War to furnish a condemned cannon to the board of regents of the University of South Dakota at Vermillion, S. Dak., to be placed on the campus of said institution as a memorial to students of said university who served in the Spanish-American war; which was read twice by its title, and referred to the Committee on Military Affairs.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. FULTON submitted an amendment providing for the adjudication by the Court of Claims of the claim of the firm of Riley, Hardin & Taylor, in Grant County, Oreg., for injuries and losses sustained in June, 1878, by a raid of Bannock, Shoshone, and Piute Indians, etc., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate \$10,698.30 to reimburse the Canadian Pacific Railway Company for cost of maintenance of alleged native-born Chinese in the years 1903 and 1904, etc., intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. NELSON submitted an amendment proposing to increase the salary of the consul at Bergen, Norway, from \$1,500 to \$2,000 per annum, intended to be proposed by him to the diplomatic and consular appropriation bill; which was referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. HALE submitted an amendment proposing to appropriate \$200,000 from money in the Treasury due the estates of deceased colored soldiers, to build a memorial national home in honor of deceased colored soldiers of the late civil war, etc., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. LONG submitted an amendment granting to electric railway, light, and power companies doing business within the limits of the Indian Territory the right of constructing and maintaining dams across nonnavigable streams, etc., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. McCUMBER submitted an amendment relative to the repeal of the provision in the Indian appropriation act of 1904 authorizing the Secretary of the Interior to sell the residue of the lands of the Creeks not taken as allotments, etc., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

ST. JOHNS RIVER (FLORIDA) IMPROVEMENT.

Mr. TALIAFERRO submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate, That the Secretary of War be, and he is hereby, directed to communicate to the Senate an estimate of the cost of obtaining a depth of 24 feet of water in the St. Johns River, Florida, from the channel of said river opposite Jacksonville to the pier line of the city of Jacksonville, Fla., as established by the Government.

FORTIFICATION'S APPROPRIATION BILL.

Mr. PERKINS submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17094) "making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes," having met, after full and free conference have

agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 2 and 4, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter inserted by the said amendment, insert the following: "For construction of fire-control stations and accessories, including purchase of lands and rights of way, and for the purchase, installation, operation, and maintenance of necessary lines and means of electrical communication, including telephones, dial, and other telegraphs, wiring and all special instruments, apparatus and materials, coast signal apparatus, and salaries of electrical experts, engineers, and other necessary employees connected with the use of Coast Artillery; for the purchase, manufacture, and test of range finders and other instruments for fire control at the fortifications, and the machinery necessary for their manufacture at the arsenals, one million dollars;" and the Senate agree to the same.

On amendment numbered 3 the conference committee have been unable to agree.

GEO. C. PERKINS,

F. E. WARREN,

JOHN W. DANIEL,

Managers on the part of the Senate.

L. N. LITTAUER,

GEO. W. TAYLOR,

Managers on the part of the House.

The report was agreed to.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on Pensions:

H. R. 13305. An act granting an increase of pension to Amos L. Griffith; and

H. R. 15861. An act granting an increase of pension to Charles O. Lapham.

H. R. 2531, an act to divide Washington into two judicial districts, was read twice by its title, and referred to the Committee on the Judiciary.

H. R. 17992, an act to permit the legislative assembly of the Territory of Oklahoma to make appropriations for the erection of buildings for the agricultural and mechanical college of said Territory, was read twice by its title, and referred to the Committee on Territories.

H. R. 18523, an act making an appropriation for fuel for the public schools of the District of Columbia, was read twice by its title, and referred to the Committee on the District of Columbia.

MARTIN T. CROSS.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 6351) granting an increase of pension to Martin T. Cross.

The amendment of the House was, in line 9, before the word "dollars," to strike out "fifty" and insert "thirty."

Mr. McCUMBER. I move that the Senate disagree to the amendment of the House and ask for a conference on the disagreeing votes of the two Houses thereon.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate; and Mr. McCUMBER, Mr. SCOTT, and Mr. TALIAFERRO were appointed.

FLORENCE O. WHITMAN.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 5947) granting an increase of pension to Florence O. Whitman.

The amendment of the House was, in line 8, before the word "dollars," to strike out "thirty" and insert "twenty-five."

Mr. McCUMBER. I move that the Senate disagree to the House amendment and request a conference.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate; and Mr. McCUMBER, Mr. SCOTT, and Mr. TALIAFERRO were appointed.

ANNE E. WILSON.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 6152) granting an increase of pension to Anne E. Wilson.

The amendment of the House was, in line 8, before the word "dollars," to strike out "twenty-four" and insert "twenty."

Mr. McCUMBER. I make the same motion in reference to this bill.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate; and Mr. McCUMBER, Mr. SCOTT, and Mr. TALLAFERRO were appointed.

PHILIP LAWOTTE.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 5732) granting a pension to Philip Lawotte.

The amendment of the House was, in line 7, before the word "dollars," to strike out "twenty" and insert "eight."

Mr. McCUMBER. I make the same motion in reference to this bill.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate; and Mr. McCUMBER, Mr. SCOTT, and Mr. TALLAFERRO were appointed.

CORPORATIONS IN THE DISTRICT OF COLUMBIA.

Mr. GALLINGER. I ask leave, out of order, to make a favorable report from the Committee on the District of Columbia. I report back without amendment the bill (H. R. 18035) to amend section 552 of the Code of Laws of the District of Columbia, relating to incorporations.

In some observations I made on yesterday I suggested that I withheld the report for the purpose of amending it touching the companies that had already been incorporated and concerning which there is a great deal of objection. I find it impossible to prepare an amendment or to have one prepared immediately, and it has occurred to me that we had better pass this bill, arresting the charters for these incorporations, and subsequently another bill will be introduced covering the other phase of the question.

I ask for the present consideration of the bill.

The PRESIDENT pro tempore. The Chair hears no objection to the request of the Senator to make the report at this time. The report will be received.

Mr. GALLINGER. I ask consent for the present consideration of the bill.

The PRESIDENT pro tempore. The bill will be read to the Senate for information.

The Secretary read the bill; and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. BACON. Mr. President, I desire to make an inquiry of the Senator from New Hampshire. We had a very interesting and earnest message from the President of the United States upon the subject of these District of Columbia incorporations—a message which I confess I have not had the opportunity to examine very thoroughly, but the importance of which I recognize even from the casual inspection or hearing of it. I wish to ask the Senator from New Hampshire whether or not this bill in any manner cures any of the troubles which are set forth in the message of the President?

Mr. GALLINGER. I will say to the Senator that it will arrest the formation of corporations, but it does not deal with those already chartered.

I will say further to the Senator that some of the lawyers of the Senate are giving that matter consideration, and I notice that the chairman of the Judiciary Committee of the House on yesterday introduced a bill covering that point. I do not know whether the bill is adequate or not.

Mr. BACON. That was the purpose of the inquiry which I made. I did not know whether the chairman of the committee thought that the passage of this bill met the difficulties and would cure the evils set forth in the message of the President, or whether it is simply in that direction and the Senator anticipates that there will be further correction in the other legislation which is now in contemplation.

Mr. GALLINGER. That is the purpose of the Senator from New Hampshire, I will say to the Senator from Georgia.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. PLATT of Connecticut subsequently said: I introduce a bill regulating corporations created by acts of Congress in certain cases. The matter was called to our attention yesterday by a message of the President, and it is important. I do not know that I subscribe to all the provisions of this bill, but I desire to introduce it in order that the subject may be considered.

The bill (S. 6982) regulating corporations created by acts of Congress in certain cases was read twice by its title.

Mr. GALLINGER. Mr. President, that is a bill which pro-

poses to deal with existing corporations. The other bills on the subject were referred to the Committee on the District of Columbia, but I move that the bill introduced by the Senator from Connecticut be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. GALLINGER. In this connection, Mr. President, I ask that the Committee on the District of Columbia may be relieved from the further consideration of the message of the President pertaining to the same subject and that the message be referred to the Committee on the Judiciary.

The PRESIDING OFFICER (Mr. KEAN in the chair). The Senator from New Hampshire asks unanimous consent that the Committee on the District of Columbia be discharged from the further consideration of the message of the President received yesterday on this subject and that it be referred to the Committee on the Judiciary. Without objection, it will be so ordered.

OWNERSHIP OF REAL ESTATE BY ALIENS.

The PRESIDENT pro tempore. The Calendar under Rule VIII is in order.

The bill (S. 1258) to amend the act entitled "An act to better define and regulate the rights of aliens to hold and own real estate in the Territories," approved March 2, 1897, was announced as first in order on the Calendar; and the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to amend the act entitled "An act to better define and regulate the rights of aliens to hold and own real estate in the Territories," approved March 2, 1897, so as to extend to aliens the same rights and privileges concerning the acquisition, holding, owning, and disposition of real estate in the District of Columbia as by that act are conferred upon them in respect of real estate in the Territories of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PREVENTION OF CRUELTY TO ANIMALS.

The bill (H. R. 10417) to prevent cruelty to certain animals in the District of Columbia, was announced as next in order on the Calendar.

Mr. HALE. Mr. President, let the bill go to the Calendar under Rule IX.

The PRESIDENT pro tempore. Objection is made, and the bill will go to the Calendar under Rule IX.

THE MERCHANT MARINE.

The bill (S. 5543) creating a commission to consider and recommend legislation for the development of the American merchant marine, and for other purposes, was announced as next in order on the Calendar.

The PRESIDENT pro tempore. This bill may as well be indefinitely postponed. It provides for the creation of a commission, and that commission has been created and made its report.

Mr. GALLINGER. It ought to be indefinitely postponed.

The PRESIDENT pro tempore. So this bill, reported by me from the Committee on Commerce, may be indefinitely postponed. It is so ordered.

PUBLIC CONVENIENCE STATIONS.

The bill (S. 4156) for the establishment of public convenience stations and bath houses was considered as in Committee of the Whole.

The bill was reported from the Committee on the District of Columbia with amendments.

The first amendment was, in section 2, on page 1, line 10, after the words "District of Columbia," to insert:

And the jurisdiction and control of such portion of any public reservation so selected as shall be required for the location of such stations and their purchase is hereby transferred from the Chief of Engineers of the United States Army to the Commissioners of the District of Columbia, such transfer to take effect from the date of notice by the said Commissioners to the Chief of Engineers of the United States Army of the location of sites of such stations.

The amendment was agreed to.

The next amendment was to strike out section 3, in the following words:

SEC. 3. That the said Commissioners are hereby authorized and empowered to construct and establish two public baths, the pools in each to be at least 50 feet square, with proper buildings, constructed of brick or stone, to inclose them.

The amendment was agreed to.

The next amendment was to strike out section 4, in the following words:

SEC. 4. That the location of the said public baths shall be selected by the said Commissioners.

The amendment was agreed to.

The next amendment was to strike out section 5, in the following words:

SEC. 5. That the said Commissioners are hereby authorized and empowered to acquire the ground necessary for the construction of the said public baths either by purchase or by condemnation proceedings. The amendment was agreed to.

The next amendment was, in section 6 (3), page 2, line 19, after the word "stations," to strike out "and public baths;" so as to make the section read:

SEC. 3. That upon the construction and establishment of said public convenience stations the said Commissioners are further authorized and empowered to make all necessary rules and regulations for the management of the same, as well as to fix the charge, if any, to be made for the use of these conveniences.

The amendment was agreed to.

The next amendment was, in section 7 (4), page 2, line 25, after the word "stations," to strike out the words "and for the purpose of acquiring the necessary ground and constructing and establishing the said public baths;" on page 3, line 3, before the word "thousand," to strike out "two hundred and forty" and insert "fifty;" and in line 4, after the word "appropriated," to strike out the words "out of any money in the United States Treasury not otherwise appropriated;" so as to read:

SEC. 4. That for the purpose of constructing and establishing the said public convenience stations the sum of \$50,000, or so much thereof as may be necessary, is hereby appropriated, to be immediately available and to be expended by said Commissioners.

The amendment was agreed to.

The next amendment was to add to section 4 the following:

And for the purpose of care and maintenance of the same during the fiscal year ending June 30, 1905, the sum of \$5,000, or so much thereof as may be necessary, is hereby appropriated, and to be expended by said Commissioners, one half of the entire sum herein appropriated to be paid out of any money in the Treasury of the United States not otherwise appropriated, the other half to be paid out of the revenues of the District of Columbia.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the establishment of public convenience stations in the District of Columbia."

ELECTION OF SENATORS.

The bill (S. 2973) to amend section 14 of the Revised Statutes of the United States, prescribing the time when Senators of the United States shall be elected, was announced as next in order.

Mr. BURROWS. Let the bill be passed over without prejudice.

The PRESIDENT pro tempore. The bill will go over without prejudice.

HENRY B. WISE.

The bill (S. 3070) granting an honorable discharge to Henry B. Wise, alias Henry W. Bach, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, to add at the end the following proviso:

Provided, That no pay, bounty, or other emoluments shall accrue by virtue of the passage of this act.

So as to make the bill read:

Be it enacted, etc., That the Secretary of War is hereby directed to grant an honorable discharge to Henry B. Wise, alias Henry W. Bach, late a captain of Company H, Thirty-ninth Regiment United States Colored Infantry: *Provided*, That no pay, bounty, or other emoluments shall accrue by virtue of the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. TELLER. I wish to call the attention of the Senate to the fact that the House has passed a similar bill, and I should like to have it substituted for the Senate bill. It is House bill 14906.

The PRESIDENT pro tempore. What is the Calendar number of the House bill?

Mr. TELLER. The bill passed the House, I think, yesterday. If the Senate bill can be passed over without any final action for a few moments, I have sent for the House bill, which passed the House yesterday. The House bill is the same as the Senate bill.

The PRESIDENT pro tempore. The House bill is not on the Calendar?

Mr. TELLER. No; it has not reached the Calendar yet.

The PRESIDENT pro tempore. The House bill is now before the Committee on Military Affairs.

Mr. TELLER. The Committee on Military Affairs has re-

ported the Senate bill favorably, and I should like to have the House bill substituted for it.

The PRESIDENT pro tempore. Then the Senator had better ask unanimous consent that the vote by which Senate bill 3070 has just been passed may be reconsidered, and that the bill be passed over without prejudice.

Mr. TELLER. I will make that request, Mr. President.

The PRESIDENT pro tempore. Is there objection to the request? The Chair hears none, and the several votes by which the bill was ordered to be engrossed for a third reading, read the third time, and passed will be reconsidered, and the bill will be passed over without prejudice.

Mr. TELLER subsequently said: Mr. President, I now have the bill (H. R. 14906) for the relief of H. B. Wise, which I understand has been referred to the Committee on Military Affairs. This bill is identical with the Senate bill which the committee have heretofore reported. I therefore ask unanimous consent that the committee may be discharged from the further consideration of the House bill, and that I may substitute the Senate bill.

Mr. COCKRELL. No; but consider and pass the House bill.

Mr. TELLER. Yes; consider the House bill, and then the Senate bill may be indefinitely postponed.

The PRESIDENT pro tempore. The Senator from Colorado asks unanimous consent that the Committee on Military Affairs be discharged from the further consideration of the bill (H. R. 14906) for the relief of H. B. Wise. Is there objection? The Chair hears none, and the committee is discharged.

Mr. TELLER. I now ask unanimous consent for the present consideration of the House bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 14906) for the relief of H. B. Wise. It proposes that Henry B. Wise, who served under the name of Henry W. Bach, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as captain of Company H, Thirty-ninth Regiment United States Colored Infantry, on the 20th day of July, 1864; but no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The PRESIDENT pro tempore. The Senate bill on the same subject, being the bill (S. 3070) granting an honorable discharge to Henry B. Wise, alias Henry W. Bach, will be indefinitely postponed in the absence of objection.

PROPOSED REVISION OF PENSION LAWS.

The next business in order was the joint resolution (S. R. 195) directing the Secretary of the Interior to have prepared and report to the Senate at the December session, 1904, a proposed revision of the pension laws applicable to all of the military service of the United States, etc.

The PRESIDENT pro tempore. The joint resolution was reported by the Senator from North Dakota [Mr. McCUMBER], asking that a certain report be made by the 1st of December, 1904. Of course that report can not be made on the 1st of December, 1904.

Mr. ALLISON. I ask that that joint resolution may be passed over without prejudice.

The PRESIDENT pro tempore. The joint resolution will be passed over without prejudice.

MONTHLY SUMMARY OF IMPORTS AND EXPORTS.

The joint resolution (S. R. 72) relating to the printing of the Monthly Summary of Imports and Exports published by the Department of Commerce and Labor was considered as in Committee of the Whole. It provides that hereafter there shall be printed monthly by the Public Printer 9,000 copies of the Monthly Summary of Imports and Exports and other statistical information prepared in the Bureau of Statistics for publication by the Department of Commerce and Labor, 1,000 copies of which shall be for the use of the Senate, 3,000 copies for the use of the House of Representatives, and 5,000 copies for the use of the Department of Commerce and Labor.

It also provides that the joint resolution approved December 18, 1895, restricting the number of copies of the Monthly Summary to 3,500, shall be rescinded.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PROTECTION OF PUBLIC FOREST RESERVES, ETC.

The bill (H. R. 7296) for the protection of the public forest reserves and national parks of the United States was announced as next in order on the Calendar.

Mr. TELLER. I ask that that bill may be passed over without prejudice.

The PRESIDENT pro tempore. That order will be made.

Mr. TELLER subsequently said: Mr. President, I desire to withdraw my objection to House bill 7296, which was reached on the Calendar a while ago, and ask that it may be now considered.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that all persons employed in the forest reserve and national park service of the United States shall have authority to make arrests for the violation of the laws and regulations relating to the forest reserves and national parks; that any person so arrested shall be taken before the nearest United States commissioner within whose jurisdiction the reservation or national park is located for trial; and that upon sworn information by any competent person any United States commissioner in the proper jurisdiction shall issue process for the arrest of any person charged with the violation of the laws and regulations; but that nothing therein contained shall be construed as preventing the arrest by any officer of the United States, without process, of any person taken in the act of violating such laws and regulations.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ROUND VALLEY INDIAN RESERVATION, CAL.

The bill (H. R. 15011) to open to homestead settlement and entry the relinquished and undisposed-of portions of Round Valley Indian Reservation, in the State of California, and for other purposes, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

INCORPORATIONS IN THE DISTRICT OF COLUMBIA.

The bill (S. 4848) to amend section 552 of the Code of Laws for the District of Columbia, relative to incorporations, was announced as the next in order on the Calendar.

Mr. LODGE. That bill had better go over, Mr. President. We passed a bill relating to the same subject this morning, and I understand that other legislation is pending in regard to it. I think in the absence of the Senator from New Hampshire [Mr. GALLINGER] the bill should go over.

The PRESIDENT pro tempore. Go over without prejudice?

Mr. LODGE. Yes; go over without prejudice. Neither the Senator from New Hampshire [Mr. GALLINGER] nor the Senator from Vermont [Mr. DILLINGHAM], who reported the bill, is at present in the Chamber.

The PRESIDENT pro tempore. The bill will go over without prejudice.

Mr. GALLINGER subsequently said: Mr. President, in my absence the bill (S. 4848) to amend section 552 of the Code of Laws for the District of Columbia, relating to incorporations, was passed over. I ask that that bill may be indefinitely postponed, as the House bill was passed this morning on the same subject.

The PRESIDENT pro tempore. In the absence of objection, that order will be made.

BUREAU OF PUBLIC HIGHWAYS.

The bill (S. 4098) to establish in the Department of Agriculture a bureau to be known as the Bureau of Public Highways, and to provide for national aid in the improvement of the public roads, was announced as next in order.

Mr. LODGE. Let that bill go over under Rule IX, Mr. President.

The PRESIDENT pro tempore. The bill will go over under Rule IX.

CAROLINE MURTAGH.

The bill (S. 5396) for the relief of Caroline Murtagh was announced as next in order.

Mr. PLATT of Connecticut. Mr. President, that bill might as well go over under Rule IX.

The PRESIDENT pro tempore. That order will be made.

UMATILLA INDIAN RESERVATION.

The bill (S. 5822) for the relief of certain purchasers of lands of the Umatilla Indian Reservation, and for other purposes, was announced as next in order on the Calendar.

Mr. SPOONER. Mr. President, by whom was that bill reported?

The PRESIDENT pro tempore. By the Senator from Minnesota [Mr. CLAPP].

Mr. SPOONER. From the Committee on Public Lands?

The PRESIDENT pro tempore. No; from the Committee on Indian Affairs.

Mr. SPOONER. Can the chairman of the Committee on Indian Affairs give an explanation of the bill?

Mr. STEWART. The Senators from the State in which the

reservation is situated can explain the matter, and probably the bill had better lie over until they come in.

Mr. SPOONER. The impression which it gives me is that it is either unnecessary or, if necessary, the reason for it is unexplained. If the lands were bought by parties under authority of law, they would be entitled to patents without a special act of Congress. There is something about the bill which I think needs a little illumination.

Mr. STEWART. I have no doubt it can be illuminated.

Mr. SPOONER. I presume the bill is all right, but it should go over.

The PRESIDENT pro tempore. The bill will go over.

PEARL RIVER BRIDGE AT SMITHS FERRY, MISS.

The bill (S. 6184) authorizing the Mississippi Central Railroad Company to construct a bridge across the Pearl River at or near Smiths Ferry, Lawrence County, Miss., was considered as in Committee of the Whole.

The bill was reported from the Committee on Commerce with amendments.

The first amendment was in section 1, on page 1, line 6, after the word "maintain," to strike out:

A railroad bridge, with single or double track, and approaches thereto over and across the Pearl River at or near Smiths Ferry, in Lawrence County, State of Mississippi, subject to the conditions and limitations hereinafter specified.

And to insert:

The bridge mention in the act approved March 2, 1903, entitled "An act to authorize the Pearl and Leaf Rivers Railroad Company to bridge Pearl River in the State of Mississippi," under and subject to the provisions of the said act, provided the actual construction of the bridge therein authorized be commenced within two years and completed within five years from the date of approval of this act.

So as to make the section read:

That the Mississippi Central Railroad Company, a railroad corporation duly incorporated and organized under the laws of the State of Mississippi, its successors or assigns be, and is hereby, authorized to construct and maintain the bridge mentioned in the act approved March 2, 1903, entitled "An act to authorize the Pearl and Leaf Rivers Railroad Company to bridge Pearl River in the State of Mississippi," under and subject to the provisions of the said act, provided the actual construction of the bridge therein authorized be commenced within two years and completed within five years from the date of approval of this act.

The amendment was agreed to.

The next amendment was to strike out section 2, as follows:

SEC. 2. That said bridge shall not interfere with the free navigation of said river beyond what may be necessary to carry into effect the rights and privileges herein granted; and in case of any litigation arising under the provisions of this act from any obstruction or alleged obstruction to the navigation of said stream such litigation may be tried and determined by the proper circuit or district court of the United States within whose jurisdiction said bridge is located.

The amendment was agreed to.

The next amendment was to strike out section 3, as follows:

SEC. 3. That any bridge built under this act and subject to its limitations shall be a lawful structure, and shall be recognized and known as a post route, upon which no higher charge shall be made for the transmission of mails and the troops and munitions of war of the United States over the same than the rate per mile paid for the transportation over the railroad or approaches leading to the said bridge; and it shall enjoy the rights and privileges of other post-roads in the United States, and equal privileges in the use of said bridge shall be granted to all telegraph and telephone companies, and the United States shall have the right of way across said bridge and its approaches for postal, telegraph, and telephone purposes.

The amendment was agreed to.

The next amendment was to strike out section 4, as follows:

SEC. 4. That said bridge over said stream shall be constructed as a drawbridge. The draw span shall be over the main channel of the said stream at an accessible navigable point, and the openings on each side of the pivot pier shall be not less than 115 feet in the clear, unless otherwise expressly directed by the Secretary of War, and if so directed shall be according to such direction, and the said openings shall be accessible at all stages of water; and the spans shall be not less than 36 feet above extreme low water, as understood at the point of location, to the lowest part of the superstructure of the bridge; and the piers and draw shall be parallel with, and the bridge shall be at right angles to, the current of the stream; and the draw shall be opened promptly, upon reasonable signals, for the passage of boats and other river craft; and said company, its successors or assigns, shall maintain at its own expense, from sunset till sunrise throughout the season of navigation, such lights or other signals on said bridge as the Light-House Board may prescribe.

The amendment was agreed to.

The next amendment was to strike out section 5, as follows:

SEC. 5. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains over the same and over approaches thereto upon payment of a reasonable compensation for such use; and in case the owner or owners of said bridge and the several railroad companies, or any of them, desiring such use shall fail to agree upon the sum or sums to be paid and upon the rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War upon a hearing of the allegations and proofs of the parties.

The amendment was agreed to.

The next amendment was to strike out section 6, as follows:

SEC. 6. That any bridge authorized to be constructed under this act shall be built under and subject to such regulations for the security of navigation of said Pearl River as the Secretary of War shall prescribe; and to secure that object the said company shall submit to the Chief of Engineers and the Secretary of War, for their examination and approval, the plans and a design drawing of the bridge and a map of location giving, for the space of one-half mile above and one-half mile below the proposed location, the topography of the banks of the river, the shore lines at high and low water, the direction and strength of currents at all stages, and soundings, accurately showing the bed of the stream and the location of any other bridge or bridges, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject; and until said plan and location of the bridge are approved by the Chief of Engineers and the Secretary of War said bridge shall not be built or commenced, and no changes shall be made in said bridge during the progress of construction nor after completion unless approved by the Chief of Engineers and the Secretary of War; and the said company shall, at its own expense, make from time to time such changes in said bridge as the Secretary of War may order in the interest of navigation.

The amendment was agreed to.

The next amendment was to strike out section 7, as follows:

SEC. 7. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendment was agreed to.

The next amendment was to strike out section 8, as follows:

SEC. 8. That this act shall be null and void if actual construction of the bridge herein authorized be not commenced within one year and completed within three years from the date of approval hereof.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to amend an act entitled 'An act to authorize the Pearl and Leaf Rivers Railroad Company to bridge Pearl River, in the State of Mississippi.'"

REVENUE CUTTERS FOR PUGET SOUND.

The bill (S. 5804) to authorize the construction of two steam vessels for the Revenue-Cutter Service for duty on Puget Sound, Washington, was considered as in Committee of the Whole. It authorizes the construction, under the direction of the Secretary of the Treasury, of two steam vessels for the Revenue-Cutter Service for duty in the waters of Puget Sound, Washington, at a cost of not to exceed \$50,000 for both vessels.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

TENDER FOR TWELFTH LIGHT-HOUSE DISTRICT.

The bill (S. 6183) to construct a tender for the engineer service of the twelfth light-house district was considered as in Committee of the Whole.

The bill was reported from the Committee on Commerce with an amendment, in line 5, after the word "dollars," to insert:

And the Light-House Board is authorized to employ temporarily at Washington three draftsmen, to be paid at current rates, to prepare the plans for the said steam tender; such draftsmen to be paid from the appropriation for building said vessel; such employment to cease and determine on or before the date when the plans for such vessel being finished, proposals for building said vessel are invited by advertisement.

So as to make the bill read:

Be it enacted, etc., That there be constructed a steam tender for the engineer service of the twelfth light-house district, at a cost not to exceed \$135,000, and the Light-House Board is authorized to employ temporarily at Washington three draftsmen, to be paid at current rates, to prepare the plans for the said steam tender; such draftsmen to be paid from the appropriation for building said vessel; such employment to cease and determine on or before the date when the plans for such vessel being finished, proposals for building said vessel are invited by advertisement.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CALUMET RIVER BRIDGE.

Mr. CULLOM. I ask unanimous consent at this time for the consideration of the bill (H. R. 17749) authorizing the Kensington and Eastern Railroad Company to construct a bridge across the Calumet River.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LIGHT-HOUSE ON RED ROCK, CALIFORNIA.

The bill (S. 6182) to establish a light-house and fog signal on Red Rock, upper part of San Francisco Bay, California, was considered as in Committee of the Whole. It provides for the

establishment of a light-house and fog-signal station on Red Rock, upper part of San Francisco Bay, California, at a cost not to exceed \$30,000.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LIGHT-HOUSE NEAR SANTA BARBARA LANDING, CALIFORNIA.

The bill (S. 6181) to establish a light-house near Santa Barbara landing, California, was considered as in Committee of the Whole. It provides for the establishment near Santa Barbara landing, Santa Barbara, Cal., of a light-house, to take the place of that now existing, at a cost not to exceed \$7,500.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JACOB LYON.

The bill (S. 5337) for the relief of Jacob Lyon was considered as in Committee of the Whole. It directs the Secretary of the Interior to issue to Jacob Lyon, late of Battery E, Second Regiment United States Artillery, a bounty-land warrant of 160 acres by reason of his military service rendered prior to March 3, 1855.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE MERCHANT MARINE.

The bill (S. 6291) to promote the national defense, to create a force of naval volunteers, to establish American ocean mail lines to foreign markets, to promote commerce, and to provide revenue from tonnage, was announced as the next business in order on the Calendar.

Mr. GALLINGER. Mr. President, I desire to say that I had hoped to call up for consideration this bill, which was reported by the Merchant Marine Commission. But the chances for doing so are certainly not very flattering at this session. I have received a great many letters from different parts of the country, from shipowners and shipbuilders, assuring me that if the bill should be passed they would proceed to construct new American steamships, and it would do a great deal to rehabilitate the American merchant marine. Satisfied that the bill can not receive the consideration it deserves at this session of Congress, I ask that it may go over under Rule IX.

The PRESIDING OFFICER (Mr. KEAN in the chair). Without objection, the bill will be passed over under Rule IX.

Mr. GALLINGER. I will make the statement that, if alive, at the first opportunity in the next session of Congress this bill, or one similar to it, will be introduced and pressed to consideration.

SUBPORTS OF ENTRY AT ROUSE POINT AND MALONE, N. Y.

The bill (S. 6337) for the establishment of subports of entry at Rouse Point and Malone, N. Y., was considered as in Committee of the Whole.

Mr. ELKINS. Was the bill reported from the Committee on Commerce?

The PRESIDING OFFICER. The bill was reported by the Senator from New York [Mr. DEFEW] from the Committee on Commerce.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BONDS ON CONTRACTS WITH THE DISTRICT OF COLUMBIA.

The bill (H. R. 7869) in relation to bonds on contracts with the District of Columbia was considered as in Committee of the Whole. It provides that in all cases where the Commissioners of the District of Columbia enter into contracts for work or material they shall require good and sufficient bonds to the United States in a penal sum sufficient, in their judgment, to secure the strict and faithful performance of the contracts to the satisfaction of the Commissioners, and guaranteeing that the contractors shall keep new pavements or other new works in repair for a term of five years from the date of completion of their contracts, which sum shall not in any case be less than 25 per cent of the estimated cost of the work or material.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DISTRICT OF COLUMBIA SPECIAL-TAX SCRIP.

The bill (H. R. 3947) for the relief of holders and owners of certain District of Columbia special-tax scrip was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GRAND ARMY OF THE REPUBLIC, ETC., INSIGNIA.

The bill (H. R. 11286) to prevent the unlawful wearing of the badge or insignia of the Grand Army of the Republic or other soldier organizations was considered as in Committee of the Whole. It provides that whoever, in the District of Columbia, not being a member of the Military Order of the Loyal Legion of the United States, of the Grand Army of the Republic, of the Sons of Veterans, of the Woman's Relief Corps, of the Union Veterans' Union, of the Union Veteran Legion, of the Military and Naval Order of the Spanish-American War, or of the Legion of Spanish War Veterans, willfully wears or uses the insignia, distinctive ribbon, or badge of membership, rosette, or button thereof, for the purpose of representing that he or she is a member thereof, shall be punished by a fine of not more than \$20 or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

Mr. PLATT of Connecticut. My attention was diverted when the bill was read. I ask that it be again read.

The PRESIDING OFFICER. The bill will again be read.

Mr. PLATT of Connecticut. Is there a report with the bill?

The PRESIDING OFFICER. There is.

Mr. PLATT of Connecticut. I should like to have the report read.

The Secretary read the report submitted by Mr. MARTIN on the 14th instant, as follows:

The Committee on the District of Columbia, to whom was referred the bill (H. R. 11286) to prevent the unlawful wearing of the badge or insignia of the Grand Army of the Republic or other soldier organizations, having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the Commissioners of the District of Columbia, as will appear by the following letter:

OFFICE COMMISSIONERS DISTRICT OF COLUMBIA,
Washington, December 23, 1904.

DEAR SIR: The Commissioners have the honor to recommend favorable action upon H. R. 11286, "To prevent the unlawful wearing of the badge or insignia of the Grand Army of the Republic or other soldier organizations," which was referred to them, at your instance, for their views thereon.

Very respectfully,

HENRY B. F. MACFARLAND,

President Board of Commissioners District of Columbia.

Hon. J. H. GALLINGER,

Chairman of Committee on District of Columbia,
United States Senate.

Mr. PLATT of Connecticut. I do not object to the bill, but I should like to ask the chairman of the Committee on the District of Columbia whether there is any real necessity for the passage of such a bill; whether persons are to any extent wearing such badges for the purpose of imposing upon the public? It is a pretty drastic bill. The reason for passing it, at least, ought to be made manifest.

Mr. GALLINGER. Mr. President, I will say in reply that I know nothing more about the matter, so far as the interrogatory of the Senator from Connecticut goes, than he does. The bill came to our committee from the House of Representatives. It was first referred to the District Commissioners, and from there referred to a subcommittee, and it was reported by some other member of the committee. I do not know what the necessity is—

The PRESIDING OFFICER. The bill was reported by the Senator from Virginia [Mr. MARTIN].

Mr. GALLINGER. Yes. I do not know how far this practice extends nor how important this legislation may be.

It occurred to me when the bill was before our committee that it was somewhat questionable, and yet I deferred to the Senator who had the bill in charge, the Senator from Virginia. Perhaps the Senator from Virginia can answer more definitely than I can.

Mr. MARTIN. Mr. President, I do not know that I can answer as I ought to be able to answer, but I will say this: The bill seemed to be demanded by the organizations of soldiers here in the District. It seemed to them there was necessity for it, and I see no objection to it.

There is this much to be said about the bill: It perhaps might as well be passed by for the present, because a member of one of these organizations saw me yesterday and said he thought the bill ought to be amended by making it more stringent than it is. He especially wanted a provision made to prevent the use of the badges in asking for pecuniary aid. He said there was no necessity for any man honorably entitled to wear the badge to be soliciting aid on the streets, and that one provision which he did not think was incorporated, as it should be, in the bill is one intended to forbid the asking of aid and the use of the badge in connection with solicitations of that sort. It might be well, therefore, to let the bill be passed by for the present.

The PRESIDING OFFICER. Does the Senator from Virginia ask that it be passed over?

Mr. MARTIN. I do, in deference to that request made of me on yesterday, not that I think the bill is one which should not be passed. I am perfectly willing to protect these people and punish those who improperly use the badges, and I see no harm that could come from the passage of the bill. But I ask that the bill may be passed over to enable these organizations to present the amendment which they contemplate presenting.

The PRESIDING OFFICER. The bill will be passed over.

Mr. PLATT of Connecticut. I should hope that there would be no addition to this penalty.

Mr. MARTIN. None is contemplated, I will say, with the permission of the Senator from Connecticut, but simply to make a provision on that one point—to prevent the use of badges in connection with solicitations on the streets.

Mr. PLATT of Connecticut. I misunderstood the Senator from Virginia. I thought he said that some one had called on him thinking the penalty was not sufficiently stringent.

Mr. MARTIN. No; that it did not embrace one provision which it ought to embrace.

The PRESIDING OFFICER. The bill will be passed over.

EZRA WALKER ABBOTT.

Mr. GALLINGER. It being necessary for me to attend a meeting of the Committee on Appropriations, I ask unanimous consent for the present consideration of a pension bill. It is the bill (S. 6799) granting a pension to Ezra Walker Abbott.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the word "contract," to insert "nurse and volunteer;" in line 7, after the word "surgeon," to insert "Medical Department;" and in line 8, before the word "dollars," to strike out "twenty-five" and insert "seventeen;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Ezra Walker Abbott, late contract nurse and volunteer surgeon, Medical Department, United States Volunteers, and pay him a pension at the rate of \$17 per month.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DECATUR TRANSPORTATION COMPANY.

The bill (H. R. 16567) to authorize the Decatur Transportation and Manufacturing Company, a corporation, to construct, maintain, and operate a bridge across the Tennessee River at or near the city of Decatur, Ala., was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FRANCIS M. CHARLES.

The bill (S. 6021) to recognize the gallant conduct and meritorious services of Francis M. Charles as a volunteer aid in the war of the rebellion was reached on the Calendar.

Mr. PLATT of Connecticut. The bill was adversely reported. The PRESIDING OFFICER. The bill was adversely reported and placed on the Calendar.

Mr. PLATT of Connecticut. Let it go over under Rule IX.

The PRESIDING OFFICER. The bill will go over under Rule IX.

ACQUISITION OF IRRIGABLE LANDS.

The bill (S. 6406) providing for the purchase and condemnation of irrigable lands in certain cases was announced as the next business in order on the Calendar.

Mr. PLATT of Connecticut. I think the bill was under consideration yesterday, and went over at the suggestion of the Senator from Wisconsin [Mr. SPOONER].

The bill, if I may be permitted, provides, as I understand, that whenever the Secretary of the Interior thinks certain land lying within the area of a proposed reservoir is necessary for the purposes of irrigation under the reclamation act he may, through the Attorney-General, initiate proceedings of condemnation.

I suppose the only question that arises about it is whether Congress ought to delegate to any officer of the Government the power to initiate condemnation proceedings whenever he thinks they are necessary.

Mr. SPOONER. I read the bill very hastily yesterday, and the provision which attracted my attention was this:

That any of the lands so acquired, which are susceptible of irrigation, shall be disposed of by the Secretary of the Interior in the same manner and subject to all the limitations, charges, terms, and conditions applicable to public lands irrigable under said reclamation act.

I have some doubt for the moment whether the Government, under the power of eminent domain, can acquire land for sale. It can take it for its own use.

Mr. PLATT of Connecticut. What does the Senator from Wisconsin say as to the suggestion I made, whether Congress can delegate to an official of the Government—a Cabinet officer or anyone else—the right to have condemnation proceedings instituted if he thinks it desirable that they should be?

Mr. HALE. My recollection of what has been the course is that Congress decides upon what shall be taken, and authorizes the Attorney-General to institute proceedings for condemnation. But I have never known the general power to be given broad and large for the Attorney-General himself to decide to what the process shall apply. He institutes the proceedings. It seems to me Congress can not delegate—

Mr. PLATT of Connecticut. This bill provides that when the Secretary of the Interior thinks any land is required for this purpose he may, through the Attorney-General, have the proceedings instituted.

Mr. HALE. That does not meet my objection.

Mr. PLATT of Connecticut. Of course not.

Mr. HALE. It is still worse.

Mr. PLATT of Connecticut. Yes.

Mr. HALE. I do not think that power should be delegated by Congress. I think the rule has been that Congress decides to what the proceeding of condemnation shall apply, and does not commit that power to the Attorney-General or to the Secretary of the Interior. It does not seek to delegate the power to go, broad and large, and institute proceedings. It ought not, it seems to me.

Mr. SPOONER. I think the act is not susceptible to substantial objection in that respect. The rule proposed to be laid down here by Congress is that whenever it shall be found necessary—

Mr. HALE. By whom?

Mr. SPOONER. Somebody has to determine that.

Mr. HALE. Congress should. That is the point. So far as I know Congress has always determined it.

Mr. SPOONER. Every time a 40-acre tract may be required? We have a general law for condemnation—

Mr. HALE. But we do not have a general law that authorizes a Secretary to decide what land shall be taken. We have a general law that authorizes the operation of the process at the hands of the Attorney-General, and whenever we provide for the location and establishment of forts, arsenals, light-houses, or public buildings we do not commit the power to a departmental officer to decide where he will select the land. We provide what shall be done and what land shall be taken, and then we put him at work condemning it. The portion of the bill which the Senator has just read provides, it seems to me, that that discretion is delegated by Congress to this officer.

Mr. SPOONER. No.

Mr. HALE. Why does it not?

Mr. SPOONER. Congress says that land necessary for use in connection with the operation of the reclamation act shall be subject to condemnation.

Mr. HALE. Who decides what is necessary?

Mr. SPOONER. That is the administrative officer's duty.

Mr. HALE. I think that has never been done.

Mr. SPOONER. We have an act under which the Government can condemn land for public buildings.

Mr. HALE. That is particular land. We always decide what the land shall be.

Mr. SPOONER. The Government has conferred upon railway companies power to condemn land for railway purposes.

Mr. HALE. Such acts state in detail what land shall be condemned and where it shall be condemned.

Mr. SPOONER. No; the power was conferred before the line was located.

Mr. HALE. I think it must have been determined by the act what land should be condemned. I certainly do not remember in my service that we have ever delegated the general power, broad and large, to any Department to decide upon the necessity at a particular point where the process shall apply. We decide it ourselves.

Mr. SPOONER. Obviously, then, it would be impossible for Congress to exercise the power of eminent domain in connection with irrigation. If Congress must by an act describe the particular tract, and that that shall be a condition precedent to the institution of condemnation proceedings, of course it would render it entirely impracticable.

Mr. HALE. Why? It seems to me not. The whole thing is in the hands of Congress in the beginning. The scheme has no life and no defined purpose and could not become operative until Congress did take it up and embark on it. I have never felt

that in doing that Congress was in any way abdicating its power of setting this process at work wherever it chooses to set it at work. But nobody else can. I do not believe in that. I do not believe we have gone so far, and I would not be in favor of it if we could as a matter of constitutional right. Even when we have such a distinguished gentleman as Attorney-General as our friend the Senator from Pennsylvania [Mr. Knox] is, conservative as he is, I would not lodge that power in him. I should have Congress decide where it shall apply, where the process shall be instituted, and upon what, and then set the officers at work.

Mr. SPOONER. In the States the power is conferred. I remember in my own State by general law for the condemnation of land for railway purposes. The act defines, of course, the public use. There is a petition to the court, and acting upon the petition the court first decides whether it is necessary that it shall be taken or not. If they decide it is not necessary, that is the end of it. The necessity for the taking—

Mr. HALE. In Maine, whatever it applies to, is all done by the legislature. We have the power of condemnation, but it is restricted. It is not given to a railroad commission or anybody else, but the legislature decides in terms where a road shall go, what shall be its terminus, how much it shall have through every town it passes, and only gives it a right of condemnation of that particular tract. That is our law in Maine.

Mr. SPOONER. It seems to me that the provision here is not very well drawn:

That whenever it shall be found necessary or advisable in connection with the operations under the reclamation act.

I think that should be limited to the necessity of public use, the necessary taking.

Mr. HALE. I think the bill had better go over.

Mr. SPOONER. The bill ought to go over, but I do not agree at all to the position of the Senator in regard to it. We can discuss it later.

Mr. BARD. If I may interrupt the Senator for a moment, I desire to call attention—

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the Senator from California will proceed.

Mr. BARD. I desire to call the attention of the Senators who have been speaking to the fact that this is only an enlargement of the power already given to the Secretary of the Interior under the reclamation act. Section 7 of the reclamation act reads as follows:

That where in carrying out the provisions of this act it becomes necessary to acquire any rights or property, the Secretary of the Interior is hereby authorized to acquire the same for the United States by purchase or by condemnation under judicial process, and to pay from the reclamation fund the sums which may be needed for that purpose.

This bill enlarges the power, and is intended to authorize the Secretary of the Interior to acquire lands incidental to the carrying out of some irrigation project, not the lands required for the construction of the works, but incidental lands that must be acquired in order that canals and ditches may be brought into the project.

Mr. HEYBURN. Mr. President, I understand the objection to the consideration of the bill is withheld.

This is a question that in the abstract might present itself in one phase and by direct application in another. The bill is directed to a tract of land owned by the heirs of an estate that has its headquarters in France. This vast tract, about thirty or forty thousand acres, as I understand it, is situated in the midst of a district that it is desirable to reclaim. The owners will neither sell nor put a price upon it, nor will they participate in those preliminary steps necessary to be taken in order to inaugurate a reclamation system. So by resting on their rights of ownership they have blocked what is known as the "Malahaur reclamation project," one very desirable to be carried out.

But it is a serious question whether or not you may condemn lands for the purpose of getting them out of the way as an obstacle to the organization of a reclamation district. You may condemn lands for the purpose of carrying out the plans and carrying into effect the law, but whether you can condemn land to which to apply the law is a very different question.

This bill adds nothing to the present power of the reclamation board, except that it may be extended so far that they can condemn lands not only necessary for the purpose of carrying out the reclamation scheme so far as constructing ditches and canals through them are concerned, but in order to buy out these objectionable settlers or landowners. It is exactly within the principle that would control in the case of parties owning real estate in the midst of a community, who are obnoxious to the community by reason of their personal character, and the community desires to be rid of them. Could they condemn their ownership? That is all there is of it.

Mr. HALE. Now, the Senator in his very interesting way discloses what I did not know before was contemplated. Un-

doubtedly that discretion, carried to the extent the Senator has described, is left here with the Secretary of the Interior.

Mr. SPOONER. That explains the second section.

Mr. HALE. Yes.

Mr. HEYBURN. You can not condemn except where there is a necessity existing and found to exist by the court. That is a preliminary to the right to exercise eminent domain by any government. There must exist a necessity. Can it be said that this constitutes a necessity? The plan of reclamation consists of storing and diverting waters to be applied to the irrigation of public lands. This is not public land. It may be unfortunate that private ownership has been interjected between the reclamation project and these people who live around it, who would be benefited by it.

Mr. FULTON. Will the Senator allow me to ask him a question?

Mr. HEYBURN. Certainly.

Mr. FULTON. Does the Senator contend that the question of necessity is a question for the courts?

Mr. HEYBURN. It is a jurisdictional question.

Mr. FULTON. The question whether it is necessary to appropriate the land?

Mr. HEYBURN. Yes; it is a jurisdictional question.

Mr. FULTON. I think not.

Mr. HEYBURN. The courts have held that that must be first determined or acceded to. This bill says "whenever it shall be found necessary or advisable." Nothing is condemned because it is advisable. The necessity must first exist. It must exist for a public use, and the property that is to be taken must be property that is necessary to be taken for that particular use.

Now, it is proposed to condemn 30,000 acres of land, for of its local application I happen to know something, as the Senator from Oregon will concede. It lies upon our borders, right across the river from Washington County, in our State, and this reclamation scheme or plan is one very desirable to the people of that section of country, both in Oregon and in Idaho.

We have just constructed a bridge from Weiser across the Snake River to the lands contemplated by this act. I should like to see the obstacle removed, but for Congress to enact a law authorizing the executive department or any other department of the Government to take private property in order to be rid of an undesirable neighbor—and that is all it amounts to—is not within our power.

Mr. FULTON. Mr. President, if the objection to the consideration of the bill may be withheld for a moment longer, I should like to make a few suggestions in answer to the Senator from Idaho.

In the first place, I will state that while I introduced this bill I did not draft it; it was prepared by the Department. But I believe that the bill is constitutional. I know that it is close on the line, but I am disposed to believe it will be held to be constitutional. I do not agree with the Senator from Idaho that the question of necessity is one of jurisdiction, unless it be made so by the act itself. It is a question for the legislative department. The only question for the courts, and the only question that can be raised before the courts, is the question whether or not the taking is for a public use. If it is a public use, then the necessity for the appropriation or for the exercise of the power of eminent domain is a question for the legislative body. It is a legislative question. The question as to whether or not the power of eminent domain shall be exercised is a question for the legislative department of the Government. Whether or not the taking is for a public use of course is a question the courts must decide.

Now, the question would be here whether or not the use to which this property is proposed to be devoted is or is not a public use. That question, I admit, is not free from doubt, although I am constrained to believe that it is a public use. There is no general definition of what constitutes a public use that I have ever been able to find.

Mr. HEYBURN. I should like to ask the Senator a question.

Mr. FULTON. Certainly.

Mr. HEYBURN. After the Government had acquired it by proceedings in condemnation, could it sell it again to private individuals? If so, is that a public use?

Mr. FULTON. It may be. There are two lines of authorities as to what constitutes a public use. There is one line of authorities which holds that in order to be a public use the thing taken must be used absolutely by the public or its agents. Another line of authorities holds that what constitutes a public use depends upon the public advantage and benefits that will result. For instance, in Massachusetts they have held right along, and the Supreme Court of the United States has affirmed the proposition, that you can condemn for factories. I think

the case is reported in 113 United States, where the Amoskeag Manufacturing Company condemned property for the purpose of erecting thereon factories, rolling mills, or iron foundries, I believe.

Mr. PLATT of Connecticut. They were cotton factories, I think. However, I do not know.

Mr. FULTON. Well, say it was a cotton factory. The principle would not be different.

Mr. PLATT of Connecticut. No.

Mr. FULTON. The Supreme Court of the United States affirmed that ruling. The land was taken for the use of the company, it is true, but the court said the question is whether the public advantage is so great that it may be said to amount to a public use.

Take another case that I recall, decided in the supreme court of Massachusetts, where a milldam having been erected, had backed the water so as to overflow a large tract of country. The legislature authorized the condemnation of the dam for the purpose of relieving the lands that were overflowed. Now, that was purely in the interests of the private individuals owning the lands. It was there contended that the taking was for private use, but that court held that it was a public use, for it advanced the interest of agriculture to so great an extent that it was beneficial to the public at large.

Mr. Justice Gray, I think it was, who announced the decision, said he could not believe that there was a distinction as to the character of interests to be affected, and that the right of eminent domain might be employed equally as well for advancing the agricultural as the manufacturing or the transportation interests of the country. And why not?

What constitutes a public use is a question that necessarily grows and changes with the needs and development of the country. What would not have been considered a taking for a public use a century ago would readily be acceded to as being a taking for a public use at the present time. Here is a great irrigation scheme entered upon by this Government—a new departure destined to open up to settlement great regions.

It is a great public policy, and the reclamation of lands now useless, making them suitable and fit for agriculture, is certainly a matter of great public importance, and a taking for that purpose is, in my judgment, a public use in the widest and best sense of the term.

Now, there stands in the way, as the Senator from Idaho has said, a tract of land the owners of which will not permit to be brought in and subjected to its portion of the cost of the reclamation. Shall the whole country be held up and the development retarded because of their obstructive tactics? If that land can be brought in, a great region can be developed. Is not that a public use? Is it not for the advancement of the public welfare? Why, the Senator's doctrine—

Mr. HEYBURN. If the Senator will permit me, I will state that these French owners hold it as a great grazing ranch company.

Mr. FULTON. Suppose they do?

Mr. HEYBURN. They do not want to have it changed from grazing lands to farming lands; that is all.

Mr. FULTON. It does not make any difference.

Mr. PLATT of Connecticut. Will the Senator permit me? I want to see if I understand the special case at which this general bill is aimed. Foreigners or private parties own a large tract of land within the area which it is proposed to irrigate?

Mr. FULTON. Yes, sir.

Mr. PLATT of Connecticut. If the whole land can be brought in, then there will be enough of it to authorize the scheme?

Mr. FULTON. Yes.

Mr. PLATT of Connecticut. But if it can not be brought in, there is not enough other land to warrant the expenditure for the scheme?

Mr. FULTON. That is it, exactly. That states it in a nutshell.

I was going to say that since the doctrine of eminent domain has been administered by the courts of this country it has been uniformly held that it may be invoked for the purpose of draining great areas. The cost may be assessed on the land benefited, but it is none the less a taking. Whenever you impose a burden, it is a taking.

It has been held for a century and more that you can condemn land for mill sites. Of course, some courts try to draw a distinction by saying that under the old laws mill owners were compelled to operate their mills and take toll, and the toll was fixed by law. But that doctrine has been departed from until now it is held by many courts that land can be taken for factories of almost every character. The Senator may argue that this doctrine carried to the extreme will per-

mit you to appropriate for use lands that are of a purely private nature.

The PRESIDENT pro tempore. The Senator from Oregon will suspend for one moment. The Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. The bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

Mr. FULTON. Mr. President, may I ask that the unfinished business be laid aside temporarily?

The PRESIDENT pro tempore. The Senator from Oregon asks unanimous consent that the statehood bill be temporarily laid aside in order that he may conclude his remarks.

Mr. FULTON. It will take me but a few moments.

The PRESIDENT pro tempore. Is there objection?

Mr. HALE. Simply for that purpose.

The PRESIDENT pro tempore. The Chair so put it. The Chair hears no objection, and the Senator from Oregon will proceed.

Mr. FULTON. I was going to say you may take either branch of authorities or either line of reasoning upon which the employment of the doctrine of eminent domain is defended, and carried to its extreme it may lead to an absurdity. For instance, a theater in the olden times was a matter of public importance and public interest, and was maintained by the government. In those days nobody would have doubted but that the appropriation of land for the purpose of erecting a theater thereon would have been devoting it to a public use. I hardly think it would be so held to-day. So the construction of a hotel is a matter of public interest; it is patronized by the public on the same principle that a transportation line is patronized by the public, but probably it would be successfully contended that you could not employ the power of eminent domain to condemn land for a hotel. So you can follow out either rule and it will lead to an absurdity, if carried to an extreme.

Mr. HALE. If the Senator's general proposition be, as I understand it, that anything which will inure to the public good can be done under the right of eminent domain, you may decide that a tract of land which is now devoted to agriculture shall be devoted to forestry because it will inure to the public good, or you may decide the reverse, that a tract of land which is devoted to forestry shall be devoted by the exercise of the right of eminent domain to agriculture, and the only limitation, the only border of this doctrine, must be what is for the public good.

If that doctrine does go so far, there is no limitation to the Government at any time taking into its fold as a part of its operation the whole question of what will finally be better for people generally in the use of land for the purposes to which it shall be directed. Now, that is going, of course, very far, and, as the Senator has stated it, it goes as far as that.

Mr. FULTON. Is it going further than taking land of a private individual for the purpose of devoting it to a mill site or a factory? Is not the advancement of agriculture as much a matter of public concern as the advancement of manufacturing? Is there any difference in principle?

Mr. SPOONER. Will the Senator from Oregon allow me to ask him a question?

Mr. FULTON. Certainly.

Mr. SPOONER. The Senator refers to the "milldam act," so called, which was sustained in Massachusetts and sustained in Wisconsin and other States, although the courts say they will not enlarge the doctrine. That is a taking for public use sub modo. The court permits the erection and maintenance of a dam for the operation of a flouring mill which will flood the land, that being necessary.

Mr. HALE. We have the same statute in Maine.

Mr. SPOONER. And the owner of the land must submit to that. But the Senator from Oregon goes beyond that. Here are thirty-five or forty thousand acres of land.

Mr. FULTON. If the Senator will allow me, I will say that I do not go beyond it. In my judgment, it is applying it to a new field, but it is the same principle.

Mr. SPOONER. I want simply to get where I can put a question. Suppose a mill and a milldam should be constructed, the land flooded, and recovery had, compensation paid; but the mill does not pay, it can not be maintained. There are 40,000 acres of land owned by some nonresidents which could be made to raise wheat for that mill—

Mr. HALE. And probably covered by water?

Mr. SPOONER. No; not covered by water. I do not sup-

pose the land is covered by water in order to run the mill. Now, is the Senator claiming that 40,000 acres of land might be condemned so that it could be utilized in raising wheat to supply raw material for that mill to the end that it might be profitably operated?

Mr. FULTON. The Senator is assuming that the mill has gone down.

Mr. SPOONER. No; simply that the mill will no longer pay; that the owner can not operate it because there is not a supply of raw material. In other words, you can not maintain the mill and keep it in operation unless land owned by some foreigner and unused can be put to the use of raising wheat. Could the land be condemned for that purpose?

Mr. FULTON. Certainly not; but the cases are not parallel at all, I will say to the Senator.

Mr. SPOONER. They are pretty nearly parallel.

Mr. FULTON. The Senator from Wisconsin has the ability to see at once that they are not parallel.

Mr. SPOONER. They are pretty nearly parallel. The Senator admits that these lands are not necessary in order to make the reservoir.

Mr. FULTON. They are necessary to make the scheme practical.

Mr. HOPKINS. Will the Senator from Oregon allow me to ask the Senator from Wisconsin a question?

Mr. FULTON. Certainly.

Mr. HOPKINS. Is the test whether the right of eminent domain can be exercised as to whether a proposed project will be profitable or not?

Mr. SPOONER. Certainly not. That is not the law.

Mr. HOPKINS. I gathered the impression from the Senator's statement that the question as to whether the right of eminent domain could be exercised depended on whether the mill could be operated profitably without the exercise of such a right.

Mr. SPOONER. Nor do I think if I owned land which was in the midst of land owned by other people, which they could not profitably use unless they got mine, they would have a right to condemn mine lest otherwise their land should lie idle.

Mr. HOPKINS. The principle of eminent domain is, in my judgment, based upon a different principle entirely from the question as to whether the project will be a profitable one or not.

Mr. SPOONER. That is what I think.

Mr. FULTON. Mr. President, that is exactly the point. The Senator from Wisconsin assumes a case where the business of a private individual has ceased to flourish. Now, can we condemn land or property in order to make it flourish and appropriate lands in some other business in order to make it profitable? Of course not.

Mr. HALE. Will the Senator allow me?

Mr. FULTON. Just wait a second, and then I will yield. I was about to say, Mr. President, that what constitutes a public use must depend very largely upon the business necessities of the people in a given age. They change. What is a public use at one time might not be a public use at another time. It depends very largely upon the business, commercial, and social conditions of the people. Now I will yield to the Senator from Maine.

Mr. HALE. The Senator says it would be monstrous to condemn for one man's benefit what would be for the benefit of another, because that would be extending the doctrine too far. Now, in this case is not that his proposition?

Mr. FULTON. No.

Mr. HALE. This scheme of irrigation can not be carried on, and can not be made profitable, it can not succeed, unless they are given the right to condemn a tract of many thousand acres entirely outside of the uses of the particular project, but which are necessary in order that the scheme may be successful. Is not that what the Senator is asking?

Mr. FULTON. That is what I was asking, but I say it is an entirely different proposition from that instanced by the Senator from Wisconsin.

Mr. HALE. It is the same except that it is reversed.

Mr. FULTON. It is a question, and must necessarily be a question, whether or not the purpose to which you propose to devote the condemned property is one that will advance in a large way the public interest, or rather whether it rises to such importance that it does become a matter of public concern.

Mr. PLATT of Connecticut. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Oregon yield to the Senator from Connecticut?

Mr. FULTON. Certainly.

Mr. PLATT of Connecticut. I wish to know if I correctly understood the Senator from Wisconsin, that if there happened

to be some lands somewhere and the adjoining proprietors could not use their land to advantage, as they thought they ought, that they could go and condemn their neighbor's land for that purpose. I remember to have heard a somewhat interesting story about a gentleman who wished to build on a whole block in New York City, and he found there an old colored woman who had about 20 feet of land. He got all the rest, but he could not get that, and so he was obliged to build around that land. I think if he had employed the Senator from Wisconsin he might have condemned that land.

Mr. SPOONER. Oh, no; I did not advocate any such proposition. Now, if the Senator from Oregon will permit me—

Mr. FULTON. Certainly.

Mr. SPOONER. If a flouring mill or a gristmill has been erected, and in the exercise of the right of eminent domain the land necessary to maintain it in operation has been acquired, and there was an immense body of land about it owned by individuals, which was lying idle, and the time comes when it is apparent the mill can not make its way unless the mill owners can acquire the land for the purpose of securing the raising of a sufficient supply of raw material, does not the Senator think that a proposition to secure that land would be ridiculous?

Mr. FULTON. I did not employ that term.

Mr. SPOONER. I employ that term.

Mr. FULTON. I would not employ that term regarding anything the Senator from Wisconsin might say.

Mr. SPOONER. That proposition would be ridiculous. Now, I will state what the Senator's proposition is in essence, and it was with a view to this that I put the other side of it. The Senator finds, for instance, within the region a good place for a gristmill. It is in the public interest that this mill should be erected and operated, and therefore the power to flood the necessary lands is exercised to that end. He has the money; he has the title to the land on which to erect the mill; it is a good enterprise, with public spirit behind it as well as individual selfishness; but there is not land enough in cultivation around it to make it pay or attractive, and in order to make successful the enterprise of maintaining and operating this mill he must have the lands in the vicinity plowed and sowed to wheat in order to furnish him a raw material. The Senator's argument would be this: That this scheme which is necessary—

Mr. HALE. And the proposition presented to us is just exactly the same as the case the Senator is supposing.

Mr. SPOONER. Yes; it is just exactly the same thing. Here is a scheme to build and maintain a mill, a quasi public work, so much a public work that the law permits a man's land to be taken when necessary to its erection, maintenance, and operation without his consent. Now, it is necessary in order that that shall be successful that the lands all around it, owned by men who do not want to sell them, who do not want to use them, shall be so disposed of as that they shall be cultivated to produce wheat for this mill. Therefore the mill owner should have the right to condemn them. Is not that really the Senator's proposition? It is as I see it.

Mr. FULTON. Well, Mr. President, if that is my position, I have been very unfortunate in endeavoring to explain myself; but that is not my position.

Mr. HALE. The question is whether the proposition does not apply to a mill if it applies to an irrigation scheme. It is the same thing.

Mr. SPOONER. That is what I thought.

Mr. HALE. It is the same thing.

Mr. FULTON. I beg pardon of the Senator from Maine, that is not my proposition either.

Mr. HALE. Is it not the claim that this irrigation scheme can not succeed, at least until this large tract of land is so disposed of that it may be devoted to purposes other than those for which its present owners are using it? The Senator does not claim in order to construct the mains and laterals of the reservoir, which make up the technical part of irrigation work, that this land is necessary. The irrigation work does not go over them and it does not go under them.

Mr. SPOONER. No; but in order to make it pay.

Mr. HALE. It does not go over the lands or under them; it does not touch them; but it is necessary to the scheme.

Mr. SPOONER. The financial part of it.

Mr. HALE. The financial part of the scheme; and whether it is a gristmill or an irrigation scheme, it is practically the same thing.

Mr. HEYBURN. I should like to make a suggestion.

The PRESIDENT pro tempore. Does the Senator from Oregon yield to the Senator from Idaho?

Mr. FULTON. I have not been saying anything for some time, Mr. President.

Mr. HEYBURN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Oregon yield to the Senator from Idaho?

Mr. FULTON. Certainly.

Mr. HEYBURN. Mr. President, the fact is that we need no legislation for the purpose of constructing canals, mains, and laterals for reservoirs, because the law already provides for that; and there is no question at all but what it is competent for Congress to authorize the condemnation of lands for that purpose.

The question presented by this bill is, May you condemn land and the Government take the title by proceedings in condemnation for the mere purpose of selling it to different owners from its present owners? That is the question.

Mr. FULTON. That is not the purpose, Mr. President. That is where Senators, it seems to me, take the wrong view of the bill. The purpose of the bill is to devote land that at the present time is utterly worthless—wide regions of arid land—to some useful purpose. This can only be undertaken by the Government, and it can only be undertaken by the Government getting a sufficient body of land in one place to make a practical scheme.

The same rule has been applied in Massachusetts, where there was a large area of country owned by private individuals that was swamp and overflowed. It was too great a burden for private individuals to drain the land. So the State was authorized to do it, and did it. A portion of that land was devoted to the public use in the way of depots and grounds, and the remainder of it was sold. The court justified the appropriation of the land as a taking for a public use.

A word in conclusion, and I will not take up the time of the Senate further. It seems to me the fact is lost sight of that the reclamation of arid land is a great public policy upon which the Government has embarked. It is not confined to one locality, but it extends throughout a broad section of our country.

Now, if the Government may not in some instances—and this is not the only one, for there are numerous instances—if the Government in some instances, where land is held in private ownership to such an extent that it will block the entire scheme, can not condemn, then this great policy must fail. That being the case, it seems to me, Mr. President, that this question rises above the mere question of private rights and private interests, and becomes a matter of public concern and public interest. It is a matter of public concern that this great irrigation policy shall go forward in order that the great body of arid lands now utterly useless may be devoted to some useful purpose. If it should become necessary to take the land of a private individual in order to bring about this great public good, then, Mr. President, it is a public use, because it is a matter of public interest and public concern.

Mr. TELLER. I presume, Mr. President, that the statehood bill is now before the Senate.

The PRESIDENT pro tempore. The statehood bill is now before the Senate.

Mr. TELLER. Then, Mr. President, I think I shall exercise my right to say a few words on this proposition. Fortunately, in the Senate we are not bound by strict rules to speak germanely to the subject which may be pending before us.

Mr. President, the question of irrigation is one of importance, and I have been regarding the scheme as a blessing to the people of the region in which I live. If, however, I had thought it was to go to an extent which would justify the exercise of the right claimed by the Senator from Oregon, I would doubt whether it would be very much of a blessing, and I certainly, as one member of the Senate, would never have voted for the original bill.

These, Mr. President, are the facts. You can put them in a nutshell. The Government says that it wants, for instance, in a certain section of the country, 50,000 acres of land in order to make irrigation a paying enterprise. I will put this case by way of illustration. Say the enterprise will cost \$500,000, or \$10 an acre, though, as a matter of fact, it will frequently cost four times that sum. Whether it costs \$10 or more an acre, the Government needs so many acres in order to carry on that enterprise. As I understand from the Senator from Oregon [Mr. FULTON] this bill is intended to meet this kind of a case: Suppose that I am the owner of 10,000 acres of that 50,000 acres, and when the Government comes to me and says, "Are you willing to pay \$10 an acre if we will furnish you water," I say "No; I am not. In the first place, I have possession of the land, and, in the second place, I have not the money to pay \$10 an acre." Thereupon the Government says, "If you do not pay, we can not make with the other 40,000 acres of land a success of this enterprise." The proposition is that in such a case that gives the Government jurisdiction to take possession of my land.

I do not care how the Government may take it, Mr. President, though I suppose even in these days, with our present ideas, the Government would probably go into court and go through the form of condemning the land; but the Government has the power, according to the Senator from Oregon, to take the land and compel me to submit to the scheme, and pay \$10 an acre when they furnish me the water, whether I want it or not.

Now, the Senator says this land is not good for anything.

Mr. FULTON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from Oregon?

Mr. TELLER. I will, but I should like first to make a statement of what I think is the Senator's case before he interrupts me.

Mr. FULTON. I wish to interrupt the Senator so that at least he may understand me. The Senator says the Government has compelled him to take the water. I do not contend that at all.

Mr. TELLER. No; but the Government can compel me to pay for the water or the Government can take the land away from me. I can have my choice, and it is a delightful choice, as you can see, in the case of a man who has not got the money to pay for the water. In fact, he has not any choice at all. The Government simply takes his land. How the Government can take it under this bill I do not know. Even for the purposes which the Senator from Oregon says the bill was drawn, it seems to me that it would not accomplish them. However, Mr. President, I doubt whether this bill will ever get where it will become a question whether it is in such form as will carry out the purposes for which the Senator from Oregon contends.

Mr. President, I want somebody, in these days of free construction and of claims of power in every department of life wherever there is an opportunity to exercise power, to tell me upon what principle my land, which is not to be crossed by this ditch and may not be benefited by this ditch, in my estimation, can be taken. I may think the land is just as good without the ditch as with it. How can I be compelled to go into that scheme, whether I want to do so or not, or to part with my land?

The Government out in our western country has gone to the extent of saying "If you do not come in, we will not sell you any water." It probably has the right to do that, and that may be proper. They will exhaust their amount of water by selling it to other people, and when they have sold it they will not be compelled to sell any more than they have got. So the man who does not come in may be cut out. But that is as far as the Government can go.

The Government of the United States under the claim that the public will be benefited by it can not, in my judgment, take my property. I live in a country where irrigation is necessary, and it might just as well say to me, "You ought to irrigate your land; and if you do not irrigate your land, the Government is going to take it away from you because the Government wants to irrigate it and the public will be benefited by having that section of land of yours irrigated." Mr. President, that does not give the Government of the United States the right of eminent domain. I do not care to go into the intricacies of the question of law involved. I think the law among lawyers is pretty well understood, or at least I thought it was until this morning. Now I am not certain about it.

Mr. FULTON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from Oregon?

Mr. TELLER. Certainly.

Mr. FULTON. The Senator talks about the hardships we impose on individuals holding land.

Mr. TELLER. I am not talking about the hardships imposed. I am discussing the supposed right of the Government to take my property without my consent for any other purpose than the public use.

Mr. FULTON. That is the question—whether or not it is a public use.

Mr. TELLER. Is it a public use because the public are to be benefited by it? The term "public use" has been so thoroughly understood for the last two hundred years that I think it is inexcusable for any lawyer in this body, or anywhere else, to apply these new ideas to it—ideas which are not founded upon principle, but are absolutely in violation of personal rights.

Mr. President, this bill of itself even goes beyond what the Senator from Oregon has suggested. The bill, as it comes here, provides that the Government, having taken my property, may lease it or sell it to somebody else, just as the Senator from Idaho [Mr. HEYBURN] has said. That is the gist of this bill. Perhaps it is not intended that that should take place, but that

is what can be done, and what it is specifically provided may be done under the bill.

Suppose, Mr. President, that I have in the State of Illinois or somewhere else a tract of land which I choose to let lie idle, and the weeds to grow on it, and my neighbors complain. The State, I presume, might enact a law requiring me to cut the weeds, or something of that kind; but I do not believe the State of Illinois, or any other State, could enact a law compelling me to sell that land on the ground that it would be better for the community to have that land put under cultivation than to have it lying idle.

I do not believe that any authority can be given by this body or by any other body legally to compel a man to part with the title to his property, except it be for a public use, when it stands in the way of that public use. As the Senator from Idaho has said, there must be a necessity for it, or else it is not to be taken. If there are two ways by which a public purpose may be effected, and by one of them condemnation proceedings need not be instituted and the public will not suffer, the rule is to take that method. When you go into court to take a man's property you have practically to prove that there is a necessity for taking it, and that the public can not get along without it.

Mr. President, I would not have spoken now except that this is a matter that is liable to come up again. I objected to this bill yesterday and supposed that would be the end of it. To-day it is here again, and so I wanted to say, so far as I am concerned, that I do not agree with either the law or the logic of the supporters of the bill.

Mr. HEYBURN. Mr. President, I want to say a word before the matter is closed. I hope some way may be found to avoid an obstruction to this irrigation scheme, which involves several hundred thousand acres. The land which it is sought to condemn is only a little patch within the tract, and the scheme is not at the mercy of these foreign holders. It is only a question of convenience. The real spirit behind it is that the owners of this land shall not be benefited by the Government reclamation scheme, known as the "Malheur project," without contributing to it. Their holding is not sufficiently large to obstruct the scheme.

I would not want to be placed in a position of opposing a reclamation scheme of so much importance as this; but neither would I want to be a party to the enactment of a law that would be held to be unconstitutional. If this bill is enacted and the Department attempts under its provisions to condemn the land, it will tie up the whole Malheur project in the courts for the next seven years, but if no attempt is made to condemn the land, the Government will find a way to get around the difficulty. It is in the interest of a speedy application of the reclamation law to this scheme, known as the "Malheur project," that I object to the enactment of a law that would tangle it up in litigation and keep it there for some time.

STATEHOOD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

Mr. SPOONER. What has become of the bill that has just been discussed, Mr. President?

The PRESIDENT pro tempore. It has gone over.

Mr. TELLER. Mr. President, I doubt whether there is any Senator who cares to speak on the statehood bill this afternoon. It seems to me that, under the circumstances, a date having been fixed for a vote—

Mr. NELSON rose.

Mr. TELLER. Does the Senator from Minnesota desire to go on with the statehood bill?

Mr. NELSON. Unless the Senator from Colorado desires to speak I wish to submit a few remarks.

Mr. TELLER. I do not care to go on this afternoon. I should like, perhaps, to go on to-morrow, but I do not feel like speaking at this time. I was going to suggest that we go to the Calendar, but if the Senator wants to speak on the statehood bill I do not desire to interfere with him.

Mr. NELSON. Mr. President, it is my purpose briefly to call attention to some of the criticisms and objections which have been made to this bill. First, I desire again to call the attention of the Senate to the situation in the Indian Territory. There seems to be in respect to that situation an entirely erroneous impression. As a matter of fact, Mr. President, there

are more real Indians in the Territory of Oklahoma than there are in the Indian Territory. There are upward of from twenty to twenty-five thousand—perhaps thirty thousand—full-blooded reservation Indians who have not by any means reached that stage of progress which the Indians of the Five Civilized Tribes have reached.

Mr. PLATT of Connecticut. The Senator means there are that number of Indians in Oklahoma?

Mr. NELSON. I mean in Oklahoma.

Why Senators should be so concerned about the Indians in the Indian Territory and consider their rights as something paramount to and an obstacle to statehood and should not take the same view in reference to the Indians of Oklahoma I do not understand.

Mr. BERRY. Will the Senator permit me to ask him a question?

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Arkansas?

Mr. NELSON. Certainly.

Mr. BERRY. I understood the Senator to say that there are more Indians in Oklahoma than in the Indian Territory.

Mr. NELSON. "Real Indians," I said.

Mr. BERRY. I presume the Senator refers entirely to full bloods.

Mr. NELSON. Yes; I referred to them.

Mr. BERRY. There are not so many when you include the half-breeds, the quarter-breeds, etc. There are in the Indian Territory eighty-odd thousand of what are called Indians—those who have Indian blood in their veins.

Mr. NELSON. Yes.

Mr. BERRY. That is correct, is it not?

Mr. NELSON. Certainly.

I said the other day, and I reiterate it, that the membership of the Five Civilized Tribes is upward of 80,000; but a large number of them are pure whites, members of the tribes and nations by marriage and adoption, while another large portion are what might be called "diluted" Indians, in whom there is only the faintest trace of Indian blood. Of full-blood Indians I think there are not in the Indian Territory to exceed from twenty to twenty-five thousand. So that there are really more full-blood Indians in Oklahoma Territory than in the Indian Territory, and if it is a matter of protecting the Indians from aggressions of the whites, and if statehood is regarded as something that will injure the Indians, there is more danger from that cause in Oklahoma than there is in the Indian Territory.

Furthermore, let us see where the argument that Senators advance in the case of Indian Territory would lead. What is the exact condition? Three or four years ago the Indians of the Five Civilized Tribes were, by an act of Congress, made full citizens of the United States. We have allotted to them in severalty nearly all their lands, the allotments, as I have explained, being divided into two classes—homestead allotments and other allotments. We have further provided by recent treaties, negotiated pursuant to the Curtis Act and other acts, which treaties have been ratified, that the tribal legislatures which they formerly had and their tribal courts shall be utterly discontinued, and that their tribal relations of every kind shall cease by the 4th of March, 1906. Under existing laws when that time comes the condition of the Indians will be this: They will be full citizens of the United States, and their tribal governments, such as they were, will be utterly extinguished. They will have had all their lands allotted to them in severalty, and, except in the matter of allotments, they will stand exactly on the footing on which the other citizens of that Territory stand.

What good would it do those Indians, I ask, to perpetuate a species of Indian government, a kind of Indian supervision over them after that time, to perpetuate an imperium in imperio? To perpetuate such a government under one guise or another, either under the guise of the amendment suggested by the Senator from Nevada or under any other form, would be mischievous indeed and a great hardship to the Indians.

Of all the Indians in this country, Mr. President, that I have seen the most manly, the most self-sustaining, and those who have accomplished most in the matter of real civilization and Americanization, are those in southeastern Alaska, in the Alaskan Archipelago. Those Indians have in no manner received any help, aid, or assistance from the Federal Government. They have had no annuities and no allotments. They are not citizens, and there is no law under which the Indians of Alaska, no matter how good they may be, can secure the little piece of land on which they and their forefathers have squatted for more than a hundred years. Yet they are in a more progressive state and further advanced than any Indians in this country of whom I have knowledge.

It seems to me—and I say it with all due respect, for I know the Senator from Colorado is sincere in his views—that it is a disadvantage to the Indians to perpetuate in any form or measure the old tribal governments, or to keep them longer under guardianship. We have, by our system of allotments, given them practically all the protection they need. Their homestead allotments in the case of four of the nations are inalienable for twenty-one years, the time that it takes an American-born child to become entitled to vote as a citizen of the United States, and in one case—that of the Seminoles—their allotments are inalienable in perpetuity. As to the other Indian lands, in the treaties that we have concluded with them recently there is a five years' limitation upon the right to sell the lands. That restriction, as I mentioned the other day, was removed by a paragraph in an Indian appropriation act. Under that provision allotments that are not homestead allotments, and those that do not belong to minors and full-blood Indians, may, with the permission of the Secretary of the Interior, be sold. That is the state of the case.

If we want to be friendly to the Indians, my idea is that we must aid them to become American citizens, and not encourage them to continue living as Indians; we must let them take pot-luck with us.

I know something about the Indian question. There is a large reservation in the northern part of my State, the White Earth Reservation, which has as fine agricultural land as can be found in any part of Minnesota. That reservation is occupied by some two or three thousand Chippewa Indians, remnants of the old Chippewa Nation. Some years ago those Indians had land allotted to them in severalty—80 acres to each member of a family, 80 acres to the husband, 80 acres to the wife, and 80 acres to each child—and yet what do they do? Except in a few cases of what are called "half-breeds," those who are nearly white, they never touch their land. They rent it to the settlers who live on the outskirts of the reservation. And yet those Indians every year get their annuities. They sit around the agency with their pipes, and wait until that little pittance of an annuity is paid them. They rent their allotments to the settlers on the outskirts for what they can get; and that is the whole extent of their farming. In development and in all that goes to make up citizenship they are far behind the Indians of Alaska, who have had no advantages whatever, who have had no help and no assistance of any kind from the Government.

In the next place, I wish to call attention to the character of an argument that has been advanced on this floor, first by the Senator from Idaho [Mr. HEYBURN], then reiterated by the Senator from North Dakota [Mr. McCUMBER], and I take it by other Senators. They seem to be under the impression that this great country of ours has an artificial dividing line at the Mississippi River, and that the great question involved in this matter is one of balance of power between the country east and the country west of that river. This is a most novel and strange doctrine to me. I have served in this body for nearly ten years, and I have never in all my experience found any hostility on the part of the people east of the Mississippi River to what we needed west of the Mississippi, if we had a righteous measure.

I want to say incidentally that I am, perhaps, in a better position to be impartial on this question than most men, for my own State, the State which I have the honor to represent in part on this floor, is partly on both sides of the Mississippi River. We are right at the head of it. A portion of our State, a quarter of it, I should think, is east of the Mississippi River, and the people west of the Mississippi River, where I live, if it had not been for Thomas Jefferson, that great Democratic apostle, would probably have been Frenchmen.

Mr. BEVERIDGE. Will the Senator from Minnesota permit me to ask him a question?

Mr. NELSON. Certainly.

Mr. BEVERIDGE. Does the Senator find in his own State that the people on the one side of the river are hostile to the people on the other?

Mr. NELSON. Not at all.

Mr. BEVERIDGE. Or does the Senator further find that any so-called "American communities" in his State are hostile to those settled by immigrants from Europe?

Mr. NELSON. Not at all.

Mr. BEVERIDGE. Is it not a harmonious American unity, without regard to race or geographical divisions?

Mr. NELSON. That is undoubtedly true.

Mr. BEVERIDGE. Is not that as true of all this country as it is of the Senator's own splendid State?

Mr. NELSON. Undoubtedly.

One Senator the other day pointed to the map and said, "Look

at the area, and then count the Senators east and west of the Mississippi River." Suppose northern Africa, Morocco, Algiers, and all that country, from the ruins of Carthage out to the Pillars of Hercules, had been in a confederate republic, and some statesman from the Desert of Sahara had got up in its legislative body and said, "Do you propose to leave the great Desert of Sahara unrepresented? Ought you not to keep it in an equilibrium in the legislative assembly with the rest of the country facing the Mediterranean here?"

Senators refer to the difference between the thirteen colonies that formed the Union; how some of them were very small and some very large; but they overlook the great historical fact that those colonies were from their very inception independent governments and independent sovereignties. Some of them began as Crown colonies and some as proprietary colonies; but, whatsoever the form, they maintained their separate existence as independent governments throughout the Revolutionary war and under the Articles of Confederation and, finally, when it was deemed necessary to adopt a Constitution and a more perfect form of government than that under the Articles of Confederation the colonies came in as independent sovereignties, and, so far as the matter of legal right is concerned, on an exact footing of equality. When it became a question of cementing the Union, they could not, in the very nature of the case, take into account the differences in size and population of the various colonies. So that illustration and that contention furnish no basis for argument in this case.

Mr. BEVERIDGE. I do not want to interrupt the Senator, and if the Senator will say I am interrupting him I will not proceed.

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Indiana?

Mr. NELSON. Certainly.

Mr. BEVERIDGE. If it is agreeable to the Senator, in this connection the fact might be pointed out that in the constitutional convention the plan was proposed by Madison and supported by the weightiest minds in the Convention that there should not be a Senatorial representation by areas or States, but from Senatorial districts, and the difference of opinion upon that question was the crux of the whole business upon which the proposed Constitution finally almost foundered.

The reason why the present method was adopted was because the smaller colonies would not ratify the Constitution unless it was agreed that they should have equal Senatorial representation.

As the Senator says, the colonies were independent governments, whereas the States which have since been created and added to the Union have been carved out of what the Constitution calls "territory belonging to the United States."

Mr. NELSON. The Senator is undoubtedly correct.

Of all the arguments which have been advanced against this bill the most untenable to my mind is the argument to divide our country by the Mississippi River and to assume that the country west of it can not receive justice from the country east of it, and that without any regard to population, resources, or fitness we should admit all the country west of the Mississippi River with a numerous Senatorial and Congressional representation in the Houses of Congress.

I do not think any Senator can honestly say that in the matter of legislation in this Chamber or at the other end of the Capitol he has ever found by his experience that legislative measures have been passed upon by the line of the Mississippi River. I have never known a case where the people who live east of the Mississippi River asked themselves the question whether a proposed legislative remedy was to be applied east or west of the Mississippi River. Those east of the Mississippi River and from the New England States gave it as much consideration as do we who come from west of the Mississippi River.

Oftentimes I have felt, and I think many Senators have felt likewise, that it is wholesome in legislation that we have a legislative brake, and sometimes in the wild West, where we become enthused with the spirit of the cowboy, we are apt to go a little too rapidly, make a little too much speed, and become a little too reckless in the manner in which we ride. So that I have felt—

Mr. BAILEY. —Mr. President—

The PRESIDING OFFICER (Mr. HOPKINS in the chair). Does the Senator from Minnesota yield to the Senator from Texas?

Mr. NELSON. If the Senator will permit me to finish my sentence, I will yield. I have felt time and again that it was wholesome for us in this body to have a little legislative brake coming from the older States east of the Mississippi River.

I now yield to the Senator from Texas.

Mr. BAILEY. I simply interrupt the Senator to say that when he feels this wild disposition tingling in his blood he can be restrained by an application at the White House.

Mr. NELSON. I wish to say to the Senator that sometimes we are apt to get a little slow and drowsy here, as people do in other bodies and audiences, and it is very good under those conditions to have a good prompter, no matter whether in the White House or elsewhere.

There is another illustration used here, and that is this: Senators enumerate the population which many of the Western States had when they were admitted into the Union, and say, "Indiana had such a population, Minnesota such a population, and these other States such a population, and look what these Territories have!" That is a misleading citation of authorities for a double reason. In the first place, the aggregate population of the country was then very much smaller than it is to-day, and when those Territories were admitted as States their population was large in comparison with that of the older States of the Union.

In the next place, the argument overlooks this point: We always have a right to see whether a Territory has in it, even if its population is scant for the time being, the elements of vitality, of resources, and of vigor that will make it a great State.

I will give an illustration, and you can see how it works. New Mexico was organized as a Territory in 1850. It has an area, if I remember aright, of a hundred and twenty-two thousand square miles. It has had a Territorial government, a legislature. There has been nothing to check its growth. In 1850 New Mexico had a population of a little over 61,000. In 1850 Minnesota was still a Territory, with a population of only 6,000, and with an area of only 83,000 square miles, much less than that of New Mexico. In 1900 Minnesota had 1,751,000, while New Mexico had less than 200,000.

Now, it will not do to say in this connection that the Territorial harness has kept it back, for it has not. We have an illustration in the case of Oklahoma. Oklahoma Territory, with an area of about 24,000 square miles, in 1890 had a population I think of 61,000, and at the last census, ten years later, Oklahoma had a population of nearly 400,000. There you have an illustration how, when the resources are in the country, when the country is adapted to it, a country will grow just as rapidly under a Territorial government as under a State government.

You have a still better illustration in the case of the Indian Territory. Look at that country—a very garden spot of Eden, with fine agricultural lands, natural gas, valuable coal mines, a great many other valuable minerals, a fine body of timber, comprising over a million acres, with especially valuable timber in the Choctaw Nation. That country has been in a sort of strait-jacket during all this time under tribal government and tribal courts.

Mr. BEVERIDGE. With no laws to speak of.

Mr. NELSON. With hardly any laws except that in late years Congress has given them little municipalities or towns, where the whites have had a legal standing and where they have been able to secure lots and residences and to maintain schools. Outside of that the country has been within the realm of the Indian, with no schools, no government of any kind.

Yet because of the fertility of that country and its natural resources white people have poured into the Indian Territory as rapidly and in as great numbers as they have into Oklahoma.

Those very drawbacks have not retarded them. The people have come there, and they are as good a class of people, as I said the other day, and as was reiterated by the Senator from Texas [Mr. BAILEY], as those who have gone into Oklahoma Territory or those who have settled any portion of our Western States. Yet in spite of all these drawbacks and handicaps they have gone in there and they have preserved by themselves in the true American spirit law and order, with no advantages of legal government.

The history of these two Territories—Indian Territory and Oklahoma—demonstrates how important it is to take into account the resources and character of a country.

It goes to show that even if a country may at a given time have a small population—like Indiana when it was admitted, like Minnesota when it was admitted—yet if God has blessed it with a good soil, a good climate, and an abundance of rain, the country will grow and prosper and become a great and prosperous State.

How is it with the other Territories of New Mexico and Arizona? Their people are not to blame for the condition existing there. I am not criticising the people. I am simply referring to the condition. Look at New Mexico, almost the oldest settled portion of what is now a part of the United States. Ari-

zona was explored by Coronado more than three hundred years ago.

The Jesuit missionaries and the Spaniards made settlements in those Territories long before there was any other settlement on the west side of the Mississippi River, and yet, with all their age, with the advantages of a Territorial system of government as free as any of our Western States ever had, those Territories are to-day, as they have been during all this period, largely in a comatose condition.

I repeat it is not the fault of the people. It arises from the sterile, sandy, and desert-like character of the soil, and from the fact that they are within the worst portion of the arid belt of the United States.

Congress passed some years ago a reclamation act, with a view of reclaiming those lands. I think it is one of the most beneficent acts Congress has enacted in recent years. But the process of reclaiming those lands, of building those great dams, of securing the water, and of settling up the country by means of irrigation is very slow indeed.

It will take years before that section, even under the most favorable conditions, with our system of irrigation, can become what may be called a really prosperous agricultural country.

Then, you must take into consideration another fact. Look at the people of New Mexico. I am not finding fault with them in any invidious spirit. I am not here to criticise anybody. But let us look at the facts. Those people have been in that country over fifty-five years. Ever since the treaty of 1848 they have been within the pale of the American Union, and yet a large share, nearly half of the people of that Territory, are to-day as much foreigners as they were when they came into this country. They are Mexicans or of Mexican descent. They speak the Spanish language. They teach it in the public schools. They use it in their legislative assemblies. Their laws are published in both languages. They have interpreters in the courts, not only as we oftentimes have them in other places to interpret the testimony of witnesses, but to interpret the arguments of the lawyers, to interpret the charge of the court, and they even have interpreters to go into the grand jury and petit-jury rooms to interpret among the jurymen—a thing unheard of in any other portion of this country.

Now, those Mexicans—and I am not finding fault with them because of it, but merely refer to the fact—have not pursued the course that the large number of immigrants into our Western States have pursued. In the great Northwest in which I have my home—and I may say it has been my lot to be one of the pioneers in two of our great Western States, the State of the Senator from Wisconsin and the State which I in part represent—in those States it is the aim and ambition of our foreign population to learn the English language as rapidly as possible, to become Americanized; and their children in the course of a generation become so perfect in the English language and in American ways that if it were not for their German or Scandinavian names you would never know that their ancestors came from a foreign country.

The spirit of progress has prevailed there. We have never had such a thing as a foreign language being taught in our public schools, except in our higher schools, where they may teach German and French as you teach Greek and Latin. But they never do it as a course of study in our regular public schools. We never have had such a thing as an interpreter in our public halls. We never have had interpreters to interpret the arguments of the lawyers in court. We have never had interpreters to interpret the charge of the court to the jury, and of course we have never had interpreters go into the petit or grand jury room to interpret to the jurymen. Such things have never prevailed there.

Now, until—and I say it with all sincerity—the people of Spanish descent in New Mexico can be imbued with the same spirit, with the same desire to become Americanized in every way, in language and in customs and in manners that our large foreign population is in the Northwest, I hold it would be hardly safe or proper to give them complete control. For that reason, inasmuch as half the population of New Mexico is of this character and the other half is composed of what we call "American people," I have thought it would be an advantage to the Mexicans to have them surrounded with all this large American population in the two Territories in order that they may sooner and more effectively become thoroughly Americanized. In that way they could work in harmony, and the Mexicans would be more at home, being associated with Americans in that country, than they would be if left by themselves.

Mr. TELLER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Colorado?

Mr. NELSON. Certainly.

Mr. TELLER. May I ask the Senator a question?

Mr. NELSON. Certainly.

Mr. TELLER. Is it in that view that in the Senator's bill it is provided that New Mexico, with this foreign population, shall have a majority of the legislature, as they most certainly have a majority of the votes? How does the Senator think the population of Arizona, who are to be in a minority in power by this bill, can influence very much the population in New Mexico, in the way he thinks is desirable, by making them acquainted with the English language?

Mr. NELSON. My reason is this: I think Americans, real Americans—I mean those who are imbued with the thorough American spirit, who have the habits and customs of Americans, and who know the language—are all the same, whether they live in Arizona or New Mexico, and I have no fears at all but that the Americans in the two Territories will act as American citizens do everywhere else for the welfare of their common country and for their State.

Mr. BEVERIDGE. Will the Senator from Minnesota permit me?

Mr. NELSON. Certainly.

Mr. BEVERIDGE. I wish to direct the attention of the Senator from Colorado to this plain answer to his very pertinent question. The Senator from Minnesota has correctly stated that a portion, perhaps half of the people of New Mexico, are Americans. I do not think it is so large a proportion.

It is claimed that practically all in Arizona who are not Indians are Americans. Therefore, if they are united, there will be a preponderance of American population. So does not the Senator from Colorado see that, even assuming what he says is true, that the Mexican population would vote together in electing members to the new constitutional convention and to the legislature? Nevertheless the Americans in the two Territories would outnumber them not only at the polls, but also in the constitutional convention and in the legislature.

Mr. TELLER. May I suggest to the Senator from Indiana that there is an unquestioned majority of Spanish-speaking people in New Mexico?

Mr. BEVERIDGE. Yes; I concede that.

Mr. TELLER. And you have given them a majority of the legislature.

Mr. BEVERIDGE. Which? The Mexicans?

Mr. TELLER. You have given to New Mexico—

Mr. BEVERIDGE. Ah!

Mr. TELLER. A majority of this convention and of the legislature and of the whole proceeding. The American population of Arizona could unite with the American population of New Mexico perhaps on a Delegate, maybe on governor; but when it comes to members of the legislature they would have no power to assist their fellow-Americans.

I wish to add another thing. If the condition in New Mexico and Arizona is such that you are to get up a contest between the English-speaking people and the Spanish people, then you ought not to admit either of them.

Mr. BEVERIDGE. But, Mr. President, to the second suggestion made by the Senator from Colorado, if the Senator from Minnesota will still permit me, comes this answer, which goes to the root of our institutions and the perpetuity of this Republic of people, and that is, the people of this country finally all become Americanized, and all vote, not as Norwegians or Germans or Irish or Dutch, but as Americans.

Does the Senator suggest that the State of Pennsylvania shall be cut in two because there are a number of counties that are called the Dutch counties, and a certain other number of counties that are called the Scotch counties? Certainly not. Those who live in the seventeen Dutch counties, I believe, are just as good Americans as those who live in the other counties. I do not think there is any virtue in the whole argument. But that is directed to the second suggestion of the Senator. The whole opposition to this bill has been based upon two things—one the sectional argument and one the racial argument.

But, Mr. President, going back to the first question of the Senator, does not the Senator see that if it be true that the Mexicans of New Mexico were to vote as a unit, as a racial body, for members of the constitutional convention and the legislature, which was what the Senator suggested, they would, if the two Territories are joined, be outnumbered by the Americans in the reunited State?

Mr. TELLER. No; they would not be, Mr. President. That is not a fact. They would not be outnumbered. I want to say that I have never raised the racial question.

Mr. BEVERIDGE. No; I did not say the Senator had.

Mr. TELLER. I hold that the Spanish-speaking population in New Mexico are as much Americans as the Senator from Indiana is an American. I have seen them for almost half a

century. I know when the Government of this country was in distress, when it wanted men to defend its existence, those people came to the front in numbers equal to those of any other community in the United States, unless it was the community in which I lived, where we gave more in proportion to our population, because it was an adult male population, than any other section of the United States. Those Mexicans were as loyal to this country as the men born anywhere in New England. They are as loyal to the principles of this Government as any people on the face of this continent.

There may be, and always will be, a little friction between the people who speak different languages, and it is not only the case in New Mexico. It can be seen in Minnesota, and it can be seen in other Western States, where the people who speak one language are pretty apt to get together on some things, especially when one of their number is running as a candidate for office.

Now, when the Senator says what we call the American population down in Arizona and New Mexico—I mean by that the people who are not of Spanish origin—will control, that might be the case if the population of Arizona were carried over and planted in New Mexico, but it never can do it and never will do it at the great distance of Arizona from New Mexico.

Mr. BEVERIDGE. Mr. President, still, with the permission of the Senator from Minnesota, I wish to make this observation in reply to the eulogy the Senator from Colorado paid to the people of New Mexico. In the very beginning of the debate in opposition to this bill the heretofore unheard of proposition was made that in Arizona and New Mexico we have two separate and hostile bodies of American citizens, with different institutions, different ambitions, and a different destiny. That new American doctrine was stated by the Senator from California [Mr. BARD]. I did not attribute it to the Senator from Colorado. The whole opposition to this bill has proceeded upon that assumption. I merely make that reply to the Senator's suggestion. We had it stated at the beginning of this debate in opposition to the bill that those two communities are antagonistic, heterogeneous, and hostile; that is an argument that has no place in a Republic like ours; and yet that is the argument of the opposition to this bill.

Mr. TELLER. Mr. President, you might say with some propriety that with the people living in Arizona and the people living in New Mexico not desiring to be formed into a State, if formed into a State against their will, having entirely different interests in many ways, there might be something of that feeling. But nothing I have said has indicated that I do not think the American and Spanish population of New Mexico or the American and Spanish population of Arizona would be as harmonious as any population anywhere in the country.

Mr. BEVERIDGE. Indeed, Mr. President, I did not attribute to the Senator any such statement. I merely said that in the beginning of the debate that proposition had been advanced and that the opposition to the bill has gone upon the sectional argument and racial argument ever since.

Mr. CLAY. Will the Senator from Indiana let me ask him a question? I understood him to say that the principal reason which controlled the committee in joining Arizona and New Mexico was the fact that the Senator found that it was essential, in order that the Anglo-Saxon should control the new State, that the true Americans in Arizona and New Mexico would unite and control the State government.

Mr. BEVERIDGE. Oh, no.

Mr. CLAY. One minute. Let me ask the Senator the question—

Mr. BEVERIDGE. The Senator says he understood me to say that.

Mr. CLAY. I am not through with the question yet. I understood the Senator to say that he found the best interests of good government demanded that, in view of the two elements, the true Americans in both Territories should unite and control the new State for the purpose of taking care of the government there in the future.

Mr. BEVERIDGE. Now, the Senator has stated two understandings that he had of what I said. Which understanding does he understand?

Mr. CLAY. If I have stated two distinct propositions, as the Senator says, the Senator ought to be able to answer them both, if they are so distinct.

Mr. BEVERIDGE. The Senator has stated two understandings of the same thing I said, and he has asked me if he understood me correctly. I ask the Senator to select one of the two understandings.

Mr. CLAY. I regret that I could not make myself plain to the Senator from Indiana. I distinctly said that I understood the Senator to contend that they endeavored to unite the true

American population of the two Territories, so that they would act together and control that State in the future; and I ask the Senator if he thinks good government demands that such a course shall be pursued?

Mr. BEVERIDGE. Mr. President, the Senator has got mixed up. Neither the Senator from Georgia nor any other Senator has heard me say that the chief reason, to use his own language, which inspired the committee to report the House bill that joined these two Territories was that at all.

In answer to an interruption of the Senator from Colorado, that the objection to the reunion (because this bill is a reunion of Arizona and New Mexico) was that the Mexican population was given by this bill a majority in the constitutional convention and in the legislature, I pointed out the fact, which is clear and plain upon the face of the statistics, that the American population of the reunited State outnumbers the Mexican population. Therefore his point fell, because there would be more Americans both in the constitutional convention and in the legislature than Mexicans, even if his point was correct, which later on he admitted it was not. But if they are not reunited this happy circumstance would not obtain.

Mr. CLAY. Then if I understand the Senator correctly, his position is that we are endeavoring to give the true Americans in Arizona and New Mexico control of the new State. I think I understand the Senator correctly.

Mr. BEVERIDGE. I do not know what the Senator's understanding is, and I disclaim any responsibility for any understanding the Senator may have of what I said.

The PRESIDENT pro tempore. Has the Senator from Minnesota yielded the floor?

Mr. NELSON. Mr. President, I was about through. I desire to call attention to only one or two other matters.

In the first place, it has been repeatedly said here that there is great hostility in New Mexico and in Arizona to the passage of this bill. There is some opposition, I admit. I think a majority of the people in New Mexico would agree to accept joint statehood. Perhaps in Arizona it is different. But I wish to say to you, Mr. President, that some of the most strenuous opposition I have encountered to that feature of the bill comes from railroad interests in that country, and it places them in a very strange predicament. Those same railroad interests want Oklahoma and Indian Territory admitted as one, but that is not the case when it comes to New Mexico and Arizona.

Perhaps I have done the railroad men injustice, but I have asked myself the question whether these great corporations have not felt that there was a greater opportunity for exploitation in Arizona and New Mexico in their present condition than there would be if they became a State. And I have asked myself the further question, Is it not because they feel that their day of exploitation is past in respect to Indian Territory and Oklahoma that they are quite willing that they should come into the Union? I may do these people an injustice, but at least some of this opposition has come to my notice.

Now, there is another question about the matter of prohibition in the Indian Territory. In approaching that question we ought to disabuse our minds of all maudlin sentiment on the subject and look at it in its practical light. I said a moment ago that we have quite a little Indian population in northern Minnesota—I presume altogether between 4,000 and 5,000 in the extreme northern portion. We have found ourselves in Minnesota perfectly competent and able to take care of the liquor question among the Indians by putting a clause in our constitution and in our laws prohibiting the sale of liquor to these Indians. That law has worked well. It has been enforced. Of course there never was a law but what somebody would violate it in some form or another, but we have found that constitutional provision to be ample in dealing with the liquor question among the Indians.

I am not speaking for the committee, but my own individual opinion in respect to the Indians, both in what is now Oklahoma Territory and Indian Territory, is if we put a provision in the constitution prohibiting in any form the sale or barter or giving of any liquor to the Indians we have accomplished all the practical good that we can accomplish. If it is necessary to put in a prohibition plank to protect the Indians in what is now the Indian Territory, why is it not in a like measure necessary to put in a similar plank in respect to what is now Oklahoma Territory, for they have as large a population of full-blood Indians there?

Then look at it from a practical standpoint in another light. Suppose you do put in a provision making prohibition either for twenty-five years or perpetual in the Indian Territory, what is the result? On the west side of that line, in what is called

Oklahoma Territory, prohibition will not prevail. It does not prevail, I believe, in the States south and east of it.

All around the confines of the little Territory that we call Indian Territory prohibition does not prevail, and what will be the result, Mr. President? The result will be, as a matter of fact, that in spite of all legislation there will be a line of what we call out West "blind pits" scattered all along the borders on all the four sides of the Territory, where the Indians by a little journey can get all the liquor they want.

I see my friend from North Dakota [Mr. HANSBROUGH] here, and he will pardon me for calling attention to one fact in connection with this case which illustrates it. I do not say it to criticize his own State. His own State is prohibition. Right on the Red River of the North there are two large towns, especially beautiful towns—Fargo, in North Dakota, the metropolis of population and wealth of that fine and growing State, and right across the river is Moorhead, in the State of Minnesota. I have noticed when I have been up in that country that they have been running free buses from Fargo, the prohibition side, across the little narrow Red River over to Moorhead to get their drinks. Is not that correct?

Mr. HANSBROUGH. My information is that the carriages or buses, frequently termed "jag wagons," I believe—

Mr. NELSON. "Jag wagons." That is correct.

Mr. HANSBROUGH. Are owned by the saloon keepers of Minnesota. Of course, we have no control over the morals of Minnesota.

Mr. NELSON. I do not dispute that question, but the fact remains, whether it is the saloons of Minnesota or whether it is the good citizens of Fargo, they have what they call "jag wagons" going across the little narrow stream, the Red River of the North, into Fargo, loading their "jag wagons" up—it is a kind of a hack with a cover over it—and taking them across the border into Minnesota to fill up, getting the whisky for a good price and the ride free.

Mr. BEVERIDGE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Indiana?

Mr. NELSON. Allow me to complete my argument. What I am afraid of is that if they force absolute prohibition within the limits of Indian Territory, a small country with States all around it, where there is no prohibition, there will be an army of jag wagons all along the border bringing liquor from over the border to these Indians and prohibition will become an absolute farce and an absolute failure.

Mr. BEVERIDGE. There is one thing—

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Indiana?

Mr. NELSON. This is my opinion. I will yield to the Senator.

Mr. BEVERIDGE. It is not very much, only I want to get this matter clear in my own mind. I was interested in this development of the state of affairs in our great Northwest. As I understand it from the Senator from Minnesota, as explained by the Senator from North Dakota—I do not say so, but as Senators who are listening understand the Senators from Minnesota and North Dakota—the industry of the constituents of the Senator from Minnesota supplies the thirst of the constituents of the Senator from North Dakota. I do not say this, but that is how it sounds—that seems to be the joint opinion of the Senators. Is that correct?

Mr. NELSON. To some extent, I believe.

Mr. HANSBROUGH. I will say to the Senator that we have a very large population in North Dakota that came originally from Indiana.

Mr. BEVERIDGE. Mr. President, I have always had a predilection for North Dakota, and I now find one more good reason in addition to the many other reasons I have. I find the reason why, among others, North Dakota has sent such admirable representatives to this body, and I am thankful to the Senator for calling my attention to that fine element of its population. North Dakota is a noble State, and Indiana is proud of having given her children to people North Dakota's broad prairies.

Mr. NELSON. So, Mr. President, coming back to the serious side of this question, I think if we put prohibition in the constitution, absolutely prohibiting the sale or barter or giving of liquor to the Indians, we have accomplished all the good we can for practical purposes. And yet I want to say that there is a strong prohibition sentiment that looks at it in a different light, and knowing, as I have known for many years, that I am far from infallible in these matters, when this sentiment approached our committee we yielded to the extent of agreeing to a prohibition period of ten years. But while we yielded to that sentiment, Mr. President, I am still of the opinion that practically it will do no good; that it will be of no effect. Those who want liquor

and pine for it and thirst for it will find a jag wagon at the border through which they can easily get it.

Mr. HEYBURN. I should like to ask the Senator from Minnesota a question.

Mr. NELSON. Certainly.

Mr. HEYBURN. I should like to inquire if the Senator is advised as to how many, if any, of the population of Indian Territory and Oklahoma would be classed as Indians not taxed?

Mr. NELSON. I think none of them. They are full citizens.

Mr. HEYBURN. Then I call attention to the following provision, on page 25 of the bill:

The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed.

Would that leave an opening for the legislature or the constitution of the proposed State at some future time to exclude any class of the Indians from citizenship?

Mr. NELSON. Not at all.

Mr. HEYBURN. Then why have the provision in the bill?

Mr. NELSON. For the very reason that that provision is of no account in respect to the Indian Territory, because when allotments have been accomplished they are made full American citizens, and their tribal government ceases in March, 1906. That provision is rather for the benefit of 20,000 or 25,000 reservation Indians in what is now the Territory of Oklahoma, and it is exactly applying the same principle we have applied in all our Territorial governments. Where there are such Indians the Government has always preserved that right.

Mr. HEYBURN. Then would it result in all the Indians having full citizenship that could not be affected by the Constitution or by the legislature in the area now known as Indian Territory, and deprive the Indians on the two reservations now in Oklahoma of the same rights, making two classes of Indians in the same State of equal natural attributes of citizenship?

Mr. NELSON. There are to-day two classes of Indians just as we have in some of the Western States; but we have a law called the "general allotment law." We have a general allotment law, passed some years ago, relating to all Indians. I think it was known as the "Dawes law." Under that general allotment law whenever allotments in severalty are made to the Indians that fact makes them citizens of the United States. The limitation upon taxation here is simply a limitation upon these small homesteads.

Mr. HEYBURN. It is a limitation upon citizenship, not upon taxation.

Mr. NELSON. This limitation is upon citizenship. Indians as they are, in a tribal state, and before allotments are made to them, are considered the wards of the nation. They are in respect to their reservation just as though that was not a part of the State in which they are located. In Minnesota we have a large Indian reservation, the White Earth Reservation. In respect to that portion of our State the jurisdiction of the Federal Government over those Indians is as complete as though that reservation was outside of the borders of the State of Minnesota. And so it is in every case. That is the effect of this law. As long as an Indian is a member of a tribe and receives annuities he is not a citizen. The moment he ceases to be a member of a tribe, the moment he receives his allotment and ceases to draw his annuities, that moment he is a citizen of Minnesota and can vote. The result will be the same here. There would be no impediment. This constitution forbids the future State of Oklahoma from giving the right to these Indians to vote.

Now, Mr. President, I have said more than I intended to say at the beginning. I want to reiterate what I have said in different form before, that this territorial equilibrium, an equilibrium in representation that we have heard so much of in the Senate, does not meet with my favor or approval. There is another equilibrium, Mr. President, that we ought to take into account, what I call the great moral equilibrium, the fitness, the capacity of these Territories to become States in the form we will admit them.

The Constitution has given us ample power, and it is for us to act wisely and discreetly in this matter. Here is a vast barren country—New Mexico and Arizona—the oldest settled portions of the United States. They are to-day with a comparatively small population. The arable land, the land that is capable of sustaining a population, is limited. Those areas are simply small oases in the desert, and until we can develop them and get them into a more prosperous and populous condition it will be idle to make these Territories, just because of their immensity, into separate and single States. The way to do it is to hold together Oklahoma and Indian Territory and make them into one great State, and to make Arizona and New Mexico into one State, which not to-day, but fifty years hence, perhaps a hun-

dred years hence, may become a considerable State, but it will never, with all its territorial dimensions, become a State like the State of Oklahoma.

Mr. BATE. I should like to ask the Senator from Minnesota a question on the point he is now discussing. The Senator is speaking of the moral and educational standard. I wish he would give me the name of any State in the United States, except Utah, that had such a clause in her constitution as to a moral or religious qualification. Can the Senator name a single State?

Mr. NELSON. We have no qualification prescribed in the constitution as to morals, that I am aware of, unless the Senator refers to the prohibition clause in respect to Indian Territory. We have no other restraint; we have nothing else reaching the moral question, unless perhaps also the polygamy clause. Those two are the only clauses which operate as a moral restraint. We have followed in one instance the precedent set in the case of Utah and in the other instance we have to some extent followed what we considered a part of the moral sentiment of the country.

Mr. BATE. The case of Utah was isolated and exceptional. The Senator can not put his finger on a single constitution prescribed for a State of this Union which contains any such doctrine as is spoken of in that constitution.

Mr. NELSON. Does the Senator refer to the polygamy clause or the prohibition clause?

Mr. BATE. I refer to what the Senator stated it to be, an educational or moral qualification.

Mr. NELSON. I am aware of no other clauses. There is one other restraining clause, if I remember it aright, which might bear on the moral question indirectly. We require that all the State officers in the State of Arizona—that is, in New Mexico and Arizona—shall speak and use the English language. I can not think of any restriction except the prohibition clause in respect to Indian Territory, the polygamy clause, and the requirement that the State officers must speak the English language.

In other respects I do not think that the constitution that we suggest to them is open to the objection that we attach to them different moral requirements than we have imposed in the case of other Territories. If I am mistaken about this, I should be glad to have the Senator from Tennessee [Mr. BATE] point out the particular requirement to which he refers.

Mr. BATE. Mr. President, in regard to what the Senator from Minnesota [Mr. NELSON] has said as to the language used in New Mexico, I do not know of any Territory which has been received into statehood as to which we provided that there should be anything in its constitution in regard to the language which should there be spoken. I do not know that it has ever been provided that the English language, the Spanish language, or the Indian tongue, or anything of that kind should be used by the people. I know this, however, Mr. President, that, whether or not it be true that those people speak the English language, they have been good citizens of the United States, and that they have paid their taxes when called upon to do so. Though some of them speak a different language from ourselves, when they have been asked to enter our Army they have come to the rescue, and their heroic deeds are a part of our history. Yet for the past fifty years they have been struggling and knocking at our door to be admitted to statehood. That is what I understand about them.

It is true that some of those people speak their native tongue; but the same is also true in the State of Minnesota, so ably represented in part by the Senator who has just spoken. There are many people in Minnesota who speak their native tongue; but are they less worthy citizens by reason of that fact? Should they for that reason be deprived of all the privileges and prerogatives of other citizens? Not so, Mr. President.

But I differ from the Senator from Minnesota in regard to the number of those in New Mexico who speak only the Spanish language. I understand that a large majority of those who are of Spanish descent—descendants of those who came in under the treaty of Guadalupe-Hidalgo—also speak the English language. I do not know how definitely; I can not speak accurately; but I believe that that has been the case.

It has also been urged as an objection to those people that it is necessary in court proceedings to employ interpreters, thereby giving rise to trouble in their courts. That is a difficulty which arises in other States. It is also oftentimes true in the State of the Senator from Minnesota. I have known of cases where it was necessary in my own State; and the same is true in many of the older States. Therefore it would not be fair to keep those people out of the Union for that reason. There is no State as to whose admission we have imposed conditions as to education or language or anything of that kind in its constitution. When a State comes into the Union, it comes in with the

power that belongs to the original States; and by that expression I mean the thirteen States. Morality, religion, and language were not spoken of at all.

Mr. NELSON. Mr. President—

Mr. SPOONER. I want to ask the Senator from Tennessee a question.

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Wisconsin?

Mr. NELSON. Certainly.

Mr. SPOONER. The Senator from Tennessee says that in no constitution of any existing State is there anything relating to morals, language, or education.

Mr. BATE. As a condition precedent to the admission of the State into the Union.

Mr. SPOONER. I ask is there anything in this bill about education, language, or morals?

Mr. NELSON. I was about to answer that. There is no restriction. The Senator from Tennessee [Mr. BATE] has referred to what has been said here in argument rather than to anything contained in this bill. There is no linguistic restriction contained in the bill. There is nothing to prevent those people, even in the courts, from using a foreign language. The only inhibition is that those who hold what we term "State offices" shall be able to read and write the English language. Aside from that there is no restriction. The people can continue, so far as this proposed law or any of the provisions of it are concerned, to speak their own Spanish language in the future as they have been doing in the past. There is no other restriction in any shape or manner. We have left that matter to be dealt with by themselves in their new State. There is nothing in the bill that inhibits them from using their native language.

Mr. NEWLANDS. Mr. President—

Mr. NELSON. I yield to the Senator from Nevada.

Mr. NEWLANDS. I should like to obtain from the Senator from Minnesota some information regarding the so-called "Mexican" population in New Mexico. I understood the Senator to say that the majority of the population of that Territory were of Mexican descent, that they still speak the Spanish language, and that interpreters are required in the courts and before grand juries and petit juries. I should like to ask the Senator whether any steps have been taken in that Territory, either by the Territorial government or by the National Government, to instruct the Mexican people in the English language and to wean them from the universal use of the Spanish language?

Mr. NELSON. I want to say to the Senator that in later years, since the American population there, though numerically less, have obtained control of the Territorial government, they have established a system of common schools, very good schools, which are becoming better and better. At first in many of those schools the Spanish language was taught, but that is gradually disappearing, and they are gradually becoming thoroughly American schools. The people there to a large extent are sending their children to those schools. Of course, the Senator understands—and there is no use of disguising it—that they are handicapped in this way: They are members of a church which requires their children to attend the parochial schools, and many of them are required to attend such schools, where they are taught in a foreign language—the Spanish language. That has been to some extent a handicap and a drawback; but I think the Territory as a whole, through its legislature and its public officials, is attempting to carry on a system of public instruction such as we all approve of and believe in in the other Territories and States.

The Mexican element is gradually improving. I looked up this question two years ago more carefully than I have been able to do at this session. I then found that in recent years there had been a marked improvement. From the governor's last report, which I have read, I think a still further improvement has taken place, and I think before a great many years the young generation now growing up will become English speaking.

Mr. NEWLANDS. I ask the Senator whether in those counties which are densely Mexican, there are schools in which English is predominantly taught?

Mr. NELSON. Public schools?

Mr. NEWLANDS. Yes.

Mr. NELSON. I think in all the public primary schools it is the aim of the law to instruct the children in the English language.

Mr. NEWLANDS. I presume that those schools are supported by Territorial taxation?

Mr. NELSON. Certainly.

Mr. NEWLANDS. And that they receive no aid at all from the United States?

Mr. NELSON. That is true.

Mr. NEWLANDS. I inquire if New Mexico should be ad-

mitted as a State under that name and under its present Territorial government, whether it would not be well to devise some system of Government aid, such as we have already given to other States after organization? It seems to me the education of those people would have been very much advanced if the Federal Government, in the spirit of liberality which it has displayed toward other Territories and toward the States themselves, had taken the opportunity of increasing the knowledge and use of the English language in that Territory.

Mr. NELSON. Mr. President, that is exactly what we aim to do by this bill when we give them a municipal land grant of four sections to every township in the Territory, and then, in addition to that, recognizing the sterile, arid, and poor character of the land and how difficult it will be to sell it until it has been irrigated, we make an appropriation of \$5,000,000. The Senator will remember that when we first took up this bill, I discussed that subject. The question was propounded to me why we put that clause appropriating \$5,000,000 in the bill. Some intimated—I do not know whether it was openly on the floor here or privately—that it was intended as a bribe. It was intended for nothing of the kind; it was simply recognizing the fact that, although in acreage this was an immense land grant, yet practically it was of little value, and that in order to give them a start until they could dispose of that arid land it was necessary to provide them with that fund. So, if this bill becomes a law and they become a State, we start the new State with a fund of \$5,000,000—a thing we have never done before in any case of which I have knowledge in the history of the admission of any State.

But, Mr. President, I feel that I have occupied the attention of the Senate longer than I should have done. I have simply aimed to review and answer some of the objections which have been made to the bill.

I say again, as I said at the very beginning, I think it will be to the great advantage of Oklahoma and Indian Territory to be united as one State, and that it will also, in the long run, be to the advantage of the people of Arizona and New Mexico to unite them into one State.

The PRESIDENT pro tempore. The bill is still before the Senate, as in Committee of the Whole, and open to amendment.

EXECUTIVE SESSION.

Mr. NELSON. Mr. President, if there is no Senator who desires to speak upon the bill at this time, I will move that the Senate go into executive session.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Minnesota, that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at 4 o'clock p. m.) the Senate adjourned until to-morrow, Wednesday, February 1, 1905, at 12 o'clock meridian.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 31, 1905.

APPOINTMENT IN THE REVENUE-CUTTER SERVICE.

Erwin S. Cooley, of New Jersey, to be a second assistant engineer in the Revenue-Cutter Service of the United States, with the rank of third lieutenant.

POSTMASTERS.

LOUISIANA.

John Dominique to be postmaster at Bastrop, in the parish of Morehouse and State of Louisiana.

Jacob Plonsky to be postmaster at Washington, in the parish of St. Landry and State of Louisiana.

MISSISSIPPI.

Mary G. Stone to be postmaster at Iuka, in the county of Tishomingo and State of Mississippi.

NEW JERSEY.

Obadiah E. Davis to be postmaster at Red Bank, in the county Monmouth and State of New Jersey.

OHIO.

Edward L. Watts to be postmaster at Peebles, in the county of Adams and State of Ohio.

OREGON.

Homer C. Atwell to be postmaster at Forestgrove, in the county of Washington and State of Oregon.

Charles J. Howard to be postmaster at Cottagegrove, in the county of Lane and State of Oregon.

WEST VIRGINIA.

Ezra B. Hauger to be postmaster at Terra Alta, in the county of Preston and State of West Virginia.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 31, 1905.

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

DELAYED MATERIAL FOR STEAMSHIP CONNECTICUT.

Mr. FOSS. Mr. Speaker, I desire to present the privileged report, from the Committee on Naval Affairs, of House resolution No. 468. I ask for the reading of the resolution and the report.

The Clerk read as follows:

House resolution No. 468.

Resolved, That the Secretary of the Navy be, and he is hereby, requested to transmit to the House of Representatives all communications from the commandant, or other officials, at the navy-yard, New York, relative to delayed deliveries of materials for use in the construction of the U. S. S. Connecticut, and to inform the House of Representatives what action, if any, has been taken by him in reference thereto.

The report was read, as follows:

The Committee on Naval Affairs, to whom was referred House resolution No. 468, after careful consideration, hereby report the same back to the House with the recommendation that it do pass.

Mr. WILLIAMS of Mississippi. What is the nature of this resolution?

Mr. FOSS. It is a resolution introduced by the gentleman from New York [Mr. FITZGERALD], asking for certain information from the Secretary of the Navy, and was reported unanimously by the Committee on Naval Affairs.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

ARMY APPROPRIATION BILL.

Mr. HULL. Mr. Speaker, I am instructed by the Committee on Military Affairs to report back the army appropriation bill with Senate amendments with the recommendation that the House nonconcur in all the amendments and ask for a conference.

The SPEAKER. The gentleman from Iowa, by direction of the Committee on Military Affairs, reports back the army appropriation bill with Senate amendments, and moves to nonconcur in all the Senate amendments and ask for a conference. Is there objection?

Mr. WILLIAMS of Mississippi. Mr. Speaker, I object. I shall object unless an opportunity is given to move to concur partially.

The SPEAKER. That is a right that any Member has.

Mr. WILLIAMS of Mississippi. As I understand the situation, it is not a question of objecting at all. The gentleman from Iowa has a right to make the motion which he has just made.

The SPEAKER. Under the rules of the House the Senate amendments containing propositions for new appropriations would, except by unanimous consent, have to be considered in Committee of the Whole House on the state of the Union.

Mr. WILLIAMS of Mississippi. As I understand the parliamentary situation, Mr. Speaker, it is that the gentleman from Iowa has moved that the House nonconcur in all the Senate amendments and ask for a conference. Is that the situation?

The SPEAKER. Yes; but the gentleman must ask unanimous consent to do that because, under the rules of the House, the bill would go to the Committee of the Whole House on the state of the Union. Without objection that point would be considered as waived, and then the question would come up on concurrence or nonconcurrence in the amendments, and it will be in the power of any Member of the House to move to concur as a privileged motion upon any or all of the Senate amendments, because that would tend to make progress on the bill.

Mr. WILLIAMS of Mississippi. I shall not object under those circumstances.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. WILLIAMS of Mississippi. Now, Mr. Speaker, as a motion to concur in whole or in part has precedence, I move that the House concur in the Senate amendment No. 11, and upon that I would like to be heard.

The SPEAKER. The gentleman from Mississippi asks a separate vote on the amendment referred to, and moves to concur. Is any other separate vote demanded? If not, a vote will be taken on them in gross.

Mr. DE ARMOND. Mr. Speaker, I would like to ask information about another amendment—the one on page 10, in relation to the subordinates in the office of the Military Secretary.

Mr. HULL. The committee recommend nonconcurrence.